

a juvenile court officer, or the county attorney may file a petition for termination of the parent-child relationship and parental rights with respect to a child.

**Sec. 7. MULTIDISCIPLINARY CHILD ABUSE INTERVENTION AND PROSECUTION TEAMS.** The attorney general is requested to form a multidisciplinary committee to develop a proposal for the establishment of regional multidisciplinary teams to focus upon child abuse prosecution and intervention needs. The attorney general is requested to submit a report of the committee findings to the governor and the general assembly prior to the 1996 legislative session. The committee should consider other state statutory schemes for multidisciplinary teams, provide options for regional groupings, review options for special focus teams such as sexual abuse, and recommend possible funding mechanisms.

**Sec. 8. REPEAL.** 1994 Iowa Acts, chapter 1130, sections 9 and 20, are repealed.

**Sec. 9. DEPARTMENT OF HUMAN SERVICES PILOT PROJECTS.** In implementing the pilot projects for child abuse assessment required under section 232.71A, as enacted by this Act, the department may apply a special protocol for conducting an assessment in response to a child abuse report to which all of the following circumstances apply:

1. Three previous child abuse reports have been made involving the same alleged perpetrator or a family member of the alleged perpetrator.

2. The three previous reports were made within a period of two years prior to the date of the latest report.

3. The assessments resulting from the previous three reports did not identify any child protection concerns.

The special protocol may involve an abbreviated assessment process, such as a telephone contact or other means, to address the abuse allegation without subjecting the family of the alleged perpetrator to repeated or extensive assessments regarding abuse allegations which have no basis.

**Sec. 10. EFFECTIVE DATE.** Section 8 of this Act, providing a repeal, being deemed of immediate importance, takes effect upon enactment.

Approved May 3, 1995

---

## CHAPTER 148

### REGULATION OF STATE BANKS AND OTHER FINANCIAL INSTITUTIONS

S.F. 320

**AN ACT** relating to the regulation of state banks and other financial institutions by the division of banking of the department of commerce.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 524.103, Code 1995, is amended by adding the following new subsections:

**NEW SUBSECTION. 2A.** "Aggregate capital" means the sum of capital, surplus, undivided profits, and reserves as of the most recent calculation date.

**NEW SUBSECTION. 8A.** "Borrower" means a person named as a borrower or debtor in a loan or extension of credit, or any other person, including a drawer, endorser, or guarantor, deemed to be a borrower under section 524.904, subsection 3.

**NEW SUBSECTION.** 9A. "Calculation date" means the most recent of the following:

- a. The date the bank's statement of condition is required to be filed pursuant to section 524.220, subsection 2.
- b. The date an event occurs that reduces or increases the bank's aggregate capital by ten percent or more.
- c. As the superintendent may direct.

**NEW SUBSECTION.** 11A. "Chief executive officer" means the person designated by the board of directors to be responsible for the implementation of and adherence to board policies and resolutions by all officers and employees of the bank.

**NEW SUBSECTION.** 11B. "Contractual commitment to advance funds" means a bank's obligation to do either of the following:

- a. Advance funds under a standby letter of credit or other similar arrangement.
- b. Make payment, directly or indirectly, to a third person contingent upon default by a customer of the bank in performing an obligation and to make such payment in keeping with the agreed upon terms of the customer's contract with a third person, or to make payments upon some other stated condition.

The term does not include commercial letters of credit and similar instruments where the issuing bank expects the beneficiary to draw on the issuer, that do not guarantee payment, and that do not provide for payment in the event of a default by a third person.

**NEW SUBSECTION.** 11C. "Control" means when a person, directly or indirectly or acting through or together with one or more persons, satisfies any of the following:

- a. Owns, controls, or has the power to vote fifty percent or more of any class of voting securities of another person.
- b. Controls, in any manner, the election of a majority of the directors, trustees, or other persons exercising similar functions of another person.
- c. Has the power to exercise a controlling influence over the management or policies of another person.

**NEW SUBSECTION.** 13A. "Executive officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of a state bank, whether or not the officer has an official title, whether or not such a title designates the officer as an assistant, or whether or not the officer is serving without salary or other compensation. The chief executive officer, chairperson of the board, the president, every vice president, and the cashier of a state bank are deemed to be executive officers, unless such an officer is excluded, by resolution of the board of directors of a state bank or by the bylaws of the state bank, from participation, other than in the capacity of a director, in major policymaking functions of the state bank, and the officer does not actually participate in the major policymaking functions. All officers who serve on a board of directors are deemed to be executive officers, except as provided for in section 524.701, subsection 3.

**NEW SUBSECTION.** 17A. "Officer" means chief executive officer, executive officer, or any other administrative official of a bank elected by the bank's board of directors to carry out any of the bank's operating rules and policies.

**NEW SUBSECTION.** 17B. "Operations subsidiary" means a wholly owned corporation incorporated and controlled by a bank that performs functions which the bank is authorized to perform.

**NEW SUBSECTION.** 19A. "Reserves" means the amount of the allowance for loan and lease losses of a state bank.

**NEW SUBSECTION.** 19B. "Sale of federal funds" means any transaction between depository institutions involving the transfer of immediately available funds resulting from credits to deposit balances at federal reserve banks, or from credits to new or existing deposit balances due from a correspondent depository institution.

**NEW SUBSECTION.** 21A. "Standby letter of credit" means a letter of credit, or similar arrangement, that represents an obligation to the beneficiary on the part of the issuer to do any of the following:

- a. Repay money borrowed by or advanced to or for the account of the account holder.
- b. Make payment on account of any indebtedness undertaken by the account holder.
- c. Make payment on account of any default by the account holder in the performance of an obligation.

Sec. 2. Section 524.103, subsections 7, 12, 15, 18, 22, 25, 26, and 27, Code 1995, are amended to read as follows:

7. "Bank" means a corporation engaged in the business of banking, authorized by law to receive deposits and whose deposits are insured by the bank insurance fund of the federal deposit insurance corporation organized under this chapter or U.S.C. title 12.

12. "Customer" means any a person having with an account or other contractual arrangement with a state bank. For the purpose of this chapter, a government or governmental body or entity may be a customer.

15. "Insolvent" means the inability of a state bank to pay its debts and obligations as they become due in the ordinary course of its business. A state bank is also considered to be insolvent if the ratio of its capital, surplus, and undivided profits to assets is at or close to zero or if its assets are of such poor quality that its continued existence is uncertain.

18. "Person" means an individual, a corporation (domestic or foreign), a partnership, an association, a trust or a fiduciary as defined in section 4.1.

22. "State bank" means any bank incorporated pursuant to the provisions of this chapter after January 1, 1970, and any "state bank" or "savings bank" incorporated pursuant to the laws of this state and doing business as such upon on January 1, 1970.

25. "Surplus" means the aggregate of the amount originally paid in as required by section 524.402 524.401, subsection 1 3, any amounts transferred to surplus pursuant to section 524.402, subsection 2, 524.405 and any amounts subsequently designated as such by action of the board of directors of the state bank.

26. "Trust company" means a business organization which is authorized to engage in trust business pursuant to section 524.1005. A bank lawfully granted exercising trust powers under the laws of this state or of the United States is not a trust company by reason of having authority to engage in trust business in addition to its general business.

27. "Undivided profits" means the accumulated undistributed net profits of a state bank, including any residue from the fund established pursuant to section 524.403 524.401, subsection 3, after:

- a. Payment or provision for payment of taxes and expenses of operations.
- b. Transfers to reserves allocated to a particular asset or class of assets.
- c. Losses estimated or sustained on a particular asset or class of assets in excess of the amount of reserves allocated therefor.
- d. Transfers to surplus and capital.
- e. Amounts declared as dividends to shareholders.

Sec. 3. Section 524.103, subsection 19, Code 1995, is amended by striking the subsection.

Sec. 4. Section 524.104, Code 1995, is amended to read as follows:

#### 524.104 RULES OF CONSTRUCTION.

In the interpretation and construction of this chapter:

1. Transactions or acts validly entered into or performed before ~~January 1, 1970~~ July 1, 1995, and the rights, duties and interests flowing from them remain valid ~~thereafter on and after July 1, 1995~~, and may be completed or terminated according to their terms and as permitted by any statute repealed or amended by this chapter, as though such repeal or amendment had not occurred.

2. All individuals who, ~~upon January 1, 1970~~ on July 1, 1995, hold any office under a provision of law repealed by this chapter, and which offices are continued by this chapter shall continue to hold such offices according to their former tenure.

Sec. 5. Section 524.105, Code 1995, is amended to read as follows:

## 524.105 EFFECT ON EXISTING BANKS.

1. The corporate existence of a state bank existing and operating on ~~January 1, 1970~~ July 1, 1995, ~~shall is not be affected by the enactment amendment~~ of this chapter.

2. All state banks ~~shall be~~ are subject to the provisions and requirements of this chapter in every particular, and all national banks, now or hereafter doing business in this state, ~~shall be~~ are subject to the provisions of this chapter, to the extent applicable, from ~~January 1, 1970~~ July 1, 1995.

Sec. 6. Section 524.107, subsection 1, Code 1995, is amended to read as follows:

1. ~~No A person may lawfully engage in this state in the business of receiving money for deposit, transact the business of banking, or may lawfully establish in this state a place of business for such purpose, except other than a state bank which is subject to the provisions of this chapter, a private bank to the extent provided for and limited by sections 524.1701 and 524.1702, and a national bank authorized by the laws of the United States to engage in the business of receiving money for deposit, shall not engage in this state in the business of receiving money for deposit, transact the business of banking, or establish in this state a place of business for such purpose.~~

Sec. 7. Section 524.109, Code 1995, is amended to read as follows:

## 524.109 BANKERS' BANK AUTHORIZED.

1. A state bank may be organized under this chapter as a bankers' bank. The bankers' bank is subject to all rights, privileges, duties, restrictions, penalties, liabilities, conditions and limitations applicable to a state banks bank generally, except as limited in the definition of bankers' bank contained in section 524.103, subsection 8. However, a bankers' bank shall have the same powers as those granted by federal law and regulation to a national bank organized as a bankers' bank under 12 U.S.C. § 27.

2. A state bank shall have the power to acquire and hold the shares in one or more bankers' banks or bank holding companies which own a bankers' bank in a total amount not to exceed five percent of the state bank's aggregate capital. A state bank shall not own, directly or indirectly, more than five percent of any class of voting shares of a bankers' bank.

Sec. 8. Section 524.201, subsection 1, Code 1995, is amended to read as follows:

1. The governor shall appoint, subject to confirmation by the senate, a superintendent of banking. The appointee shall be selected solely with regard to qualification and fitness to discharge the duties of office, and ~~no a person shall not~~ be appointed who has not had at least five years experience as an executive officer in a bank or in the regulation or examination of banks.

Sec. 9. Section 524.202, Code 1995, is amended to read as follows:

## 524.202 SUPERINTENDENT - SALARY.

~~The superintendent shall receive a salary to be fixed by the state banking board governor. The superintendent shall be entitled to receive reimbursement for expenses incurred in the performance of the superintendent's duties, subject to the provisions of section 524.209.~~

Sec. 10. Section 524.204, Code 1995, is amended to read as follows:

## 524.204 DEPUTY SUPERINTENDENT OF BANKING.

1. The superintendent shall appoint a deputy superintendent of banking, who shall assist the superintendent in the performance of the superintendent's ~~office~~ duties and who shall perform the duties of the superintendent during the absence or the inability of the superintendent, and as directed by the superintendent.

2. The deputy superintendent shall be removable at the pleasure of the superintendent. If the office of the superintendent becomes vacant, the deputy superintendent shall have all the powers and duties of the superintendent until a new superintendent is appointed by the governor in accordance with the provisions of this chapter.

3. The deputy superintendent shall receive a salary to be fixed by the state banking board as provided in section 524.208. ~~The deputy superintendent shall be entitled to receive reimbursement for expenses incurred in the performance of the deputy superintendent's duties, subject to the provisions of section 524.209.~~

Sec. 11. Section 524.211, subsections 1 and 2, Code 1995, are amended by striking the subsections and inserting in lieu thereof the following:

1. The superintendent, deputy superintendent, an assistant to the superintendent, a bank examination analyst, general counsel, or an examiner assigned to the bank bureau of the banking division is prohibited from obtaining a loan of money or property from a state-chartered bank or any person or entity affiliated with a state-chartered bank.

2. The superintendent, deputy superintendent, finance company bureau chief, and all examiners assigned to the finance company bureau are prohibited from obtaining a loan of money or property from a finance company licensed by the banking division.

Sec. 12. Section 524.211, Code 1995, is amended by adding the following new subsections:

**NEW SUBSECTION.** 2A. The superintendent, deputy superintendent, an assistant to the superintendent, a bank examination analyst, finance company bureau chief, general counsel, or an examiner of the banking division who has credit relations with a mortgage banking company or credit card company licensed by the banking division is prohibited from participating in decisions, oversight, and official review of matters concerning the regulation of the mortgage banking company or credit card company with which such person has credit relations.

**NEW SUBSECTION.** 2B. An assistant to the superintendent, a bank examination analyst, general counsel, or an examiner assigned to the bank bureau of the banking division who has credit relations with a finance company licensed by the banking division is prohibited from participating in decisions, oversight, and official review of matters concerning the regulation of the finance company with which such person has credit relations.

**NEW SUBSECTION.** 2C. An employee of the banking division, other than the superintendent or a member of the state banking board, shall not perform any services for, and shall not be a shareholder, member, partner, owner, director, officer, or employee of, any enterprise, person, or affiliate subject to the regulatory purview of the banking division.

Sec. 13. Section 524.211, subsection 4, Code 1995, is amended to read as follows:

4. ~~The superintendent, deputy superintendent, or any assistant or examiner who is convicted of theft, burglary, robbery, larceny or embezzlement as a result of a violation of the laws of this state or of the United States~~ a felony while holding such position shall be immediately discharged from employment and shall be forever disqualified from holding any position in the banking division.

Sec. 14. Section 524.212, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

**524.212 PROHIBITION AGAINST DISCLOSURE.**

The superintendent, deputy superintendent, assistant to the superintendent, examiner, or other employee of the banking division shall not disclose, in any manner, to any person other than the person examined and those regulatory agencies referred to in section 524.217, subsection 2, any information relating specifically to the supervision and regulation of any state bank, persons subject to the provisions of chapter 533A, 533B, 536, or 536A, any affiliate of any state bank, or an affiliate of a person subject to the provisions of chapter 533A, 533B, 536, or 536A, except when ordered to do so by a court of competent jurisdiction and then only in those instances referred to in section 524.215, subsections 1, 2, 3, and 5.

Sec. 15. Section 524.215, Code 1995, is amended to read as follows:

524.215 RECORDS OF ~~DEPARTMENT~~ DIVISION OF BANKING.

All records of the ~~department~~ division of banking shall be public records subject to the provisions of chapter 22, except that all papers, documents, reports, reports of examinations and other writings relating specifically to the supervision and regulation of any state bank or other person by the superintendent pursuant to the laws of this state shall not be public records and shall not be open for examination or copying by the public or for examination or publication by the news media.

The superintendent, deputy superintendent, assistants, or examiners shall not be subpoenaed in any cause or proceeding to give testimony concerning information relating specifically to the supervision and regulation of any state bank or other person by the superintendent pursuant to the laws of this state, ~~nor shall and~~ the records of the banking division which relate specifically to the supervision and regulation of any such state bank or other such person shall not be offered in evidence in any court or subject to subpoena by any party except, where relevant:

1. In such actions or proceedings as are brought by the superintendent.
2. In any matter in which an interested and proper party seeks review of a decision of the superintendent.
3. In any action or proceeding which arises out of the criminal provisions of the laws of this state or the United States.
4. In any action brought as a shareholders derivative suit against a state bank.
5. In any action brought to recover moneys ~~or to recover upon an indemnity bond for the loss of which was a result of~~ embezzlement, misappropriation, or misuse of state bank funds by a director, officer, or employee of the state bank.

Sec. 16. Section 524.217, Code 1995, is amended to read as follows:

## 524.217 EXAMINATIONS.

1. The superintendent ~~shall have power to make~~ may do all of the following:
  - a. Make or cause to be made an examination of every state bank and trust company whenever in the superintendent's judgment such examination is necessary or advisable, but in no event less frequently than once during each two-year period. During the course of each examination of a state bank or trust company, inquiry shall be made as to its financial condition, the security afforded to those to whom it is obligated, the policies of its management, whether the requirements of law have been complied with in the administration of its affairs, and such other matters as the superintendent may prescribe. ~~The superintendent shall also have power to make~~
  - b. Make or cause to be made such limited examinations at such times and with such frequency as the superintendent ~~may deem~~ deems necessary and advisable to determine the condition of any state bank or trust company and whether any person has violated any of the provisions of this chapter.
  2. c. ~~The superintendent shall have power to make~~ Make or cause to be made an examination of any corporation in which the state bank or trust company owns shares ~~except corporations described in paragraphs "a" and "b" of subsection 3 of section 524.901. The superintendent shall also have power, upon~~
  - d. Upon application to and order of the district court of Polk county, ~~to~~ make or cause to be made an examination of any person having business transactions or a relationship with any state bank or trust company when such an examination is deemed necessary and advisable in order to determine whether the capital of the state bank or trust company is impaired or whether the safety of its deposits has been imperiled. The fee for any such examination shall be paid by the state bank or trust company.
  3. e. To the extent necessary for the purpose of any examination provided for by this section and section 524.1105, ~~the superintendent shall have the power to~~ examine all relevant books, records, accounts, and documents and ~~to~~ compel the production of the same in the manner prescribed by section 524.214.
  4. 2. The superintendent may furnish to the federal deposit insurance corporation, the federal reserve system, the office of the comptroller of the currency, the office of thrift

supervision, national credit union administration, ~~the federal home loan bank~~, and financial institution regulatory authorities of other states, or to any official or supervising examiner thereof ~~of such regulatory authorities~~, a copy of the report of any or all examinations made of any state bank and of any affiliate of a state bank.

5. ~~3.~~ A copy of the report of each examination of a state bank or trust company shall be transmitted by the superintendent to the board of directors of the state bank or trust company except to the extent that the report of any such examination may be confidential to the superintendent, and each member of the board of directors shall furnish to the superintendent, on forms to be supplied by the superintendent, a statement that the member has read the report of examination.

6. ~~4.~~ All reports of examinations, including any copies thereof ~~of such reports~~, in the possession of any person other than the superintendent or employee of the banking division, including any state bank or any agency to which any report of such examination may be furnished under subsection ~~4 of this section 2~~, shall be confidential communications, shall not be subject to subpoena from such persons, and shall not be published or made public by such persons.

7. ~~5.~~ The report of examination of any affiliate or of any person examined as provided for in subsection ~~2 1, paragraph "c" or "d"~~, shall not be transmitted by the superintendent to any such affiliate or person or to any state bank or trust company or to the board of directors of any state bank or trust company unless authorized or requested by such affiliate or person.

Sec. 17. Section 524.219, Code 1995, is amended to read as follows:

~~524.219 FEES FOR EXAMINATIONS.~~

A state bank subject to examination, supervision, and regulation by the superintendent, shall pay to the superintendent ~~a fee fees~~, established by the state banking board, based on ~~the time required for the examination and the administrative costs and expenses incurred in the discharge of the duties imposed upon the superintendent by this chapter.~~ The fee fees shall include, but are not be limited to costs and expenses for salaries, expenses and travel for employees, office facilities, supplies, and equipment. ~~Such fee shall apply equally to all state banks.~~

The fee fees for examination of any affiliate of a state bank as provided for in section 524.1105, and the examinations provided for in section 524.217, subsection ~~2 1, paragraphs "c" and "d"~~, shall be established by the state banking board, based on the time required for the examination and the administrative costs and expenses incurred in the discharge of the duties imposed upon the superintendent by this chapter. The fee fees shall include, but not be limited to costs and expenses for salaries, expenses and travel for employees, office facilities, supplies, and equipment.

Upon completion of each examination required or allowed by this chapter, the examiner in charge of ~~such the~~ examination shall render a bill for ~~such fee the fees~~, in duplicate, and shall deliver one copy thereof ~~of the bill~~ to the state bank ~~or private bank~~ and one copy to the superintendent.

~~PARAGRAPH DIVIDED.~~ Failure to pay the amount of ~~such fee the fees~~ to the superintendent within ten days after the date of ~~the close of each such examination billing~~ shall subject the state bank ~~or private bank~~ to an additional fee ~~charge~~ equal to five percent of the amount of ~~such fee the fees~~ for each day the payment is delinquent.

Sec. 18. Section 524.220, subsections 2 and 3, Code 1995, are amended to read as follows:

2. The statement shall be transmitted to the superintendent within thirty days after the receipt of a request for the statement from the superintendent ~~end of each calendar quarter. A statement shall be called for by the superintendent at least three times each year.~~

3. ~~Within forty days after the date of the receipt of the request for a statement of condition, the~~ The state bank shall cause the statement of condition filed for a calendar quarter which ends on June 30 to be published no later than the following August 15 and the statement of condition filed for a calendar quarter which ends on December 31 to be

published ~~once~~ no later than February 15 of the following year in a newspaper of general circulation in the municipal corporation or unincorporated area in which the state bank has its principal place of business, or if there is none, in a newspaper of general circulation published in the county, or in a county adjoining the county, in which the state bank has its principal place of business. Proof of such publication by affidavit of the publisher of the newspaper in which it was made, shall be delivered to the superintendent and ~~shall be~~ is conclusive evidence of the fact.

Sec. 19. Section 524.224, subsection 9, Code 1995, is amended to read as follows:

9. The state bank has failed to renew its corporate existence in the manner provided for in section ~~524.106~~ 524.314 within one hundred eighty days prior to the expiration thereof.

Sec. 20. Section 524.301, Code 1995, is amended to read as follows:

524.301 INCORPORATORS.

A state bank may be incorporated under this chapter by ~~not less than five~~ one or more individuals eighteen years of age or older, a majority of whom shall be ~~citizens~~ residents of this state and ~~all of whom shall be~~ citizens of the United States.

Sec. 21. Section 524.302, Code 1995, is amended to read as follows:

524.302 ARTICLES OF INCORPORATION.

1. The articles of incorporation of a state bank, in the form prescribed by the superintendent, shall set forth the following:

1. a. The name of the state bank, that it is incorporated for the purpose of conducting the business of banking, and that it is incorporated under the provisions of this chapter.

2. b. The location of its proposed ~~or existing~~ principal place of business including the name of the county, municipal corporation ~~or unincorporated area~~ and county.

3. c. The duration of the state bank which shall be perpetual.

4. d. The aggregate number of common and preferred shares which the state bank shall have authority to issue, and the par value of such shares; ~~if~~ if such shares are to be divided into classes or series, the number of shares of each class or series and a statement of the par value of the shares of each class or series.

5. ~~If there is to be a preferred class, a statement of the preferences, voting rights, if any, limitations and relative rights in respect of the shares of such class.~~

6. ~~Any provision, permissible under section 524.506, limiting or denying the shareholders the pre-emptive right to acquire additional shares of the state bank.~~

7. ~~Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision restricting the transfer of shares and any provision which under this chapter is required or permitted to be set forth in the bylaws.~~

8. e. The number of directors constituting the initial board of directors and the names and addresses of the individuals who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify.

9. f. The name and address of each incorporator.

g. The specific month in which the annual meeting of shareholders is to be held.

2. The articles of incorporation may set forth any or all of the following:

a. Provisions not inconsistent with law regarding:

(1) Managing the business and regulating the affairs of the corporation.

(2) Defining, limiting, and regulating the affairs of the corporation.

b. Any provision required or permitted by this chapter to be set forth in the bylaws.

10. c. ~~At the election of the incorporators or shareholders, a~~ A provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that the provision does not eliminate or limit the liability of a director for any breach of the director's duty of loyalty to the corporation or its shareholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, for any transaction

from which the director derives an improper personal benefit, or under section 524.605, subsection 1 ~~and~~ or 2. A provision shall not eliminate or limit the liability of a director for any act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

~~11. The specific month in which the annual meeting of shareholders shall be held.~~

~~12. Any provision not inconsistent with law or the purposes for which the state bank is organized, which the incorporators elect to set forth; or any provision limiting any of the powers enumerated in this chapter.~~

~~3. It shall not be necessary to set forth in the~~ The articles of incorporation ~~need not set forth~~ any of the corporate powers enumerated in this chapter. The articles of incorporation shall be signed by all of the incorporators and acknowledged before an officer authorized to take acknowledgments of deeds.

Sec. 22. Section 524.303, unnumbered paragraph 2, Code 1995, is amended by striking the unnumbered paragraph.

Sec. 23. Section 524.304, Code 1995, is amended to read as follows:

524.304 PUBLICATION OF NOTICE.

~~1. The incorporators of a state bank shall, within thirty days of the acceptance of the application for processing, publish notice of their intention to deliver, or the delivery of, the articles of the proposed incorporation to the superintendent, once each week for two successive weeks in a newspaper of general circulation published in the municipal corporation which is proposed as the principal place of business of the state bank, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the proposed state bank is to have its principal place of business. The first publication of the notice shall appear prior to, or within ten days after, the date of delivery of the articles of incorporation to the superintendent and shall set forth all of the following:~~

~~1. a.~~ a. The name of the proposed state bank.

~~2. b.~~ b. A statement that it is to be incorporated under this chapter.

~~3. c.~~ c. The purpose or purposes of the state bank.

~~4. d.~~ d. The names and addresses of the incorporators and of the members of the initial board of directors as they appear, or will appear, in the articles of incorporation.

~~5. e.~~ e. The date ~~of the delivery of the articles of incorporation to the superintendent~~ the application was accepted for processing.

~~6. f.~~ f. If the incorporation of the state bank has been approved by the superintendent under section 524.305, subsection 6, the name and address of the bank with which the state bank will have merged ~~or consolidated~~, or the assets of which the state bank will have acquired or the condition of which in some other way provided a purpose for the incorporation.

2. Proof of publication of the notice by affidavit of the publisher of the newspaper in which the notice appears shall be filed with the superintendent and is conclusive evidence of the publication.

Sec. 24. Section 524.305, Code 1995, is amended to read as follows:

524.305 APPROVAL BY SUPERINTENDENT.

1. Upon receipt of an application for approval of a state bank, the superintendent shall conduct ~~such~~ an investigation as the superintendent deems necessary to ascertain whether:

a. The articles of incorporation and supporting items satisfy the requirements of this chapter.

b. The convenience and needs of the public will be served by the proposed state bank.

c. The population density or other economic characteristics of the area primarily to be served by the proposed state bank afford reasonable promise of adequate support for the state bank.

d. The character and fitness of the incorporators and of the members of the initial board of directors are such as to command the confidence of the community and to warrant the belief that the business of the proposed state bank will be honestly and efficiently conducted.

e. The capital structure of the proposed state bank is adequate in relation to the amount of the anticipated business of the state bank and the safety of prospective depositors.

f. The proposed state bank will have sufficient personnel with adequate knowledge and experience to conduct the business of the state bank, and to administer fiduciary accounts, if the state bank is to be authorized to act in a fiduciary capacity.

2. Within one hundred eighty days after receipt of the application for approval together with the items referred to in section 524.303, subsections 1 and 2 is accepted for processing, the superintendent shall make a determination whether to approve or disapprove the pending application on the basis of the investigation.

3. Within ninety thirty days after the date of the second publication of the notice referred to in required under section 524.304, any interested person opposing the pending application shall file written objections with the superintendent may submit written comments and information to the superintendent concerning the application. Following the expiration of the ninety day period and prior to making a determination on the pending application, the superintendent shall give adequate notice of the pending application, and may afford all interested persons, including the incorporators, an opportunity for a stenographically reported hearing during which such persons shall be allowed to present evidence in support of, or in opposition to, the pending application. Comments challenging the legality of an application must be submitted separately in writing. The superintendent may extend the thirty-day comment period, if, in the judgment of the superintendent, extenuating circumstances which justify the extension exist.

The superintendent shall conduct such hearing if any interested person files an objection to the pending application and requests a hearing.

3A. Within thirty days after the date of the second publication of the notice required by section 524.304, any interested person may submit a written request of the superintendent for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. If the reasons are related to factual disputes, the disputes shall be described. A written request for a hearing shall be evaluated by the superintendent, who may grant or deny the request in whole or in part. A hearing request shall generally be granted only if\* is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.

3B. If a request for a hearing is denied, the superintendent shall notify the applicant and all interested persons and shall state the reasons for the denial. An interested person may submit additional written comments or information on the application to the superintendent, with copies to the applicant at the time of submission to the superintendent, within fourteen days after the date of the notice of denial. The applicant shall be provided an additional seven days, after the fourteen-day deadline has expired, within which to respond to any comments submitted within the fourteen-day period after the notice of denial. The superintendent may waive this seven-day period if requested by the applicant. A copy of any response submitted by the applicant shall also be mailed by the applicant to the interested persons at the time the response is submitted to the superintendent.

4. If the superintendent approves the pending application, the superintendent shall deliver the articles of incorporation, with the superintendent's approval indicated thereon, to the secretary of state and notify the incorporators, and such other persons who requested in writing that they be notified, of such the approval. If the superintendent disapproves the pending application, the superintendent shall notify the incorporators of the action and the reason for the decision.

\*According to enrolled Act

5. The actions of the superintendent shall be subject to judicial review in accordance with ~~the terms of the Iowa administrative procedure Act chapter 17A.~~ The court may award damages to the incorporators if it finds that review is sought frivolously ~~and or~~ in bad faith.

6. ~~Subsection 3 of this section~~ Subsections 3, 3A, and 3B shall not apply if the superintendent finds that one of the purposes of the proposed state bank is the merger ~~or consolidation~~ with, or the purchase of some or all of the assets of and assumption of some or all of the liabilities of, a bank for which a receiver has been appointed or which has been ordered, by authorities of this state or the United States, to cease to carry on its business, or if the superintendent finds for any other reason that immediate action on the pending application is advisable in order to protect the interests of depositors or the assets of any other bank.

7. ~~Before~~ As a condition of receiving the decision of the superintendent with respect to the pending application the incorporators shall, ~~upon notice,~~ reimburse the superintendent ~~to the extent of the~~ for all expenses incurred by the superintendent in connection with the application.

Sec. 25. Section 524.306, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.306 INCORPORATION OF STATE BANK.

1. Unless a delayed effective date or time is specified, the corporate existence of a state bank begins when the articles of incorporation, with the superintendent's approval indicated on the articles of incorporation, are filed with the secretary of state. The secretary of state shall record the articles of incorporation and forward a copy of them to the county recorder of the county in which the state bank is to have its principal place of business.

2. The secretary of state's filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation, except in a proceeding instituted by the superintendent to cancel or revoke the incorporation or involuntarily dissolve the corporation.

Sec. 26. Section 524.307, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.307 ORGANIZATION OF STATE BANK.

Upon incorporation of the state bank, the initial board of directors shall hold an organizational meeting within this state, at the call of a majority of the directors, to complete the organization of the state bank by electing officers, adopting bylaws, if any are to be adopted, and conducting any other business properly brought before the board at the meeting.

Sec. 27. Section 524.308, subsection 1, Code 1995, is amended by striking the subsection.

Sec. 28. Section 524.308, subsection 3, Code 1995, is amended to read as follows:

3. If a state bank transacts any business before receipt of an authorization to do business in violation of subsection 2, the directors and officers who willfully authorized or participated in ~~such the~~ the action ~~shall be~~ are severally liable for the debts and liabilities of the state bank incurred prior to the receipt of the authorization to do business.

Sec. 29. Section 524.309, Code 1995, is amended to read as follows:

524.309 PUBLICATION OF AUTHORIZATION TO DO BUSINESS.

1. A state bank shall cause to be published once within two weeks after the issuance by the superintendent of the authorization to do business, in a newspaper of general circulation published in the municipal corporation which is the principal place of business of the state bank, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the state bank has its principal place of business, a notice which shall state all of the following:

1. a. The name of the state bank, the address of its principal place of business, and the date of the issuance of the authorization to do business.

~~2. b.~~ The names and addresses of the members of the initial board of directors as designated in the articles of incorporation.

~~3. c.~~ That the shareholders shall not be personally liable for the debts and obligations of the state bank.

2. Proof of such publication, by affidavit of the publisher of the newspaper in which it was made, shall be filed ~~with the secretary of state and~~ with the superintendent, and shall be is conclusive evidence of the fact.

Sec. 30. Section 524.310, subsections 1 and 2, Code 1995, are amended to read as follows:

1. The name of a state bank originally incorporated after the effective date of this chapter shall include the word "bank" and may include the word "state" or "trust" in its name. If a A state bank uses using the word "trust" in its name, it must be authorized under this chapter to act in a fiduciary capacity.

2. The provisions of this section shall not require any state bank, existing and operating on January 1, 1970, to add to, modify or otherwise change its corporate name, either on January 1, 1970, or upon renewal of its corporate existence pursuant to section ~~524.106~~ 524.314.

Sec. 31. Section 524.312, subsections 1 and 2, Code 1995, are amended to read as follows:

1. A state bank originally incorporated pursuant to this chapter shall have its principal place of business within the ~~confines~~ city limits of a municipal corporation. The existence of a state bank shall not, however, be affected by the subsequent discontinuance of the municipal corporation. A state bank existing and operating on January 1, 1970, which does not have its principal place of business within the ~~confines~~ city limits of a municipal corporation, may renew its corporate existence pursuant to section ~~524.106~~ 524.314 without regard to this section and may also operate as a bank or convert to and operate as a bank office when acquired by or merged into another state bank and approved by the superintendent.

2. A state bank may, with the prior written approval of the superintendent, change the location of its principal place of business to a new location. A change of location shall be limited to another location in the same municipal corporation, to a location in a municipal corporation in the same county, or to a location in a municipal corporation in ~~counties surrounding and a county that is~~ contiguous to or touching or cornering on the county in which the state bank is located. If a state bank has its principal place of business in an unincorporated area, the superintendent may authorize a change of location of its principal place of business to a new location within the same unincorporated area as well as to any location referred to in ~~the preceding sentence~~ this subsection.

Sec. 32. Section 524.312, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. If a change in the location of the principal place of business of a state bank is proposed, application for approval of the superintendent shall be made as required by the superintendent pursuant to this section. A change in location of the principal place of business of a state bank, including a change from one municipal corporation to another municipal corporation within an urban complex, requires an amendment to the articles of incorporation pursuant to sections 524.1502, 524.1504, and 524.1506. A state bank seeking approval of a change of location pursuant to this subsection shall publish once each week for two consecutive weeks a notice of the proposed change of location in a newspaper of general circulation in the municipal corporation or unincorporated area in which the state bank has its principal place of business, or if there is none, in a newspaper of general circulation in the county, or in a county adjoining the county, in which the state bank has its principal place of business, and in the municipal corporation in which it seeks to establish its principal place of business, or if there is none, in a newspaper of general circulation in the county, or in a county adjoining the county, in which the municipal

corporation is located. The notices shall be published within thirty days after the application to the superintendent for approval of the change in location is accepted for processing. The notice shall set forth the name of the state bank, the present location of its principal place of business, the location to which it proposes to move its principal place of business, and the date upon which the application was accepted for processing by the superintendent.

**NEW SUBSECTION. 2B.** Within thirty days after acceptance of an application for approval of a change of location of the principal place of business of a state bank pursuant to subsection 2A, the superintendent shall commence an investigation into the circumstances of the application as deemed necessary by the superintendent, giving due consideration to factors substantially similar to those set forth in section 524.305, subsection 1, paragraphs "c" through "f". Within one hundred eighty days after the application has been accepted for processing, the superintendent shall approve or disapprove the application on the basis of the investigation. The superintendent shall give written notice of the decision to the state bank, and in the event of disapproval a statement of the reasons for the disapproval. If the superintendent approves the change in location the superintendent shall deliver the articles of amendment to the secretary of state. As a condition of receiving the decision of the superintendent with respect to the application, the state bank shall reimburse the superintendent for all expenses incurred by the superintendent in connection with the application.

Sec. 33. Section 524.313, Code 1995, is amended to read as follows:  
524.313 BYLAWS.

~~The initial bylaws, if any, of a A state bank shall be adopted by its board of directors may~~ adopt bylaws. The power to ~~alter, adopt,~~ amend, or repeal bylaws or adopt new bylaws ~~shall be is~~ vested in the board of directors unless reserved to the shareholders by the articles of incorporation. The bylaws may contain any provisions for the regulation and management of the affairs of the state bank not inconsistent with law or the articles of incorporation.

Sec. 34. **NEW SECTION.** 524.314 RENEWAL OF CORPORATE EXISTENCE OF EXISTING STATE BANK.

1. The corporate existence of a state bank existing and operating on January 1, 1970, which expires subsequent to that date, may be renewed prior to the expiration date of the corporate existence, following the affirmative vote of the holders of at least a majority of the shares entitled to vote on the renewal, at a meeting held for that purpose and called as provided by section 524.509, and delivery to the superintendent of the articles of incorporation together with the applicable filing and recording fees for the filing and recording. If the superintendent finds that the articles of incorporation satisfy the requirements of this section, the superintendent shall deliver them to the secretary of state for filing and recording in the secretary of state's office. Following the receipt of the articles of incorporation, the secretary of state shall proceed as provided in section 524.306.

2. Sections 524.303, 524.304, 524.305, 524.307, 524.308, and 524.309 are not applicable to a state bank existing and operating on January 1, 1970, which renews its corporate existence as provided in subsection 1.

3. The renewal of the corporate existence of a state bank pursuant to this section shall not affect any right accrued or established, or any liability or penalty incurred, under the laws of this state or of the United States, prior to the issuance of a certificate of incorporation by the secretary of state.

Sec. 35. Section 524.401, Code 1995, is amended to read as follows:  
524.401 MINIMUM CAPITAL.

1. The minimum capital of a state bank existing and operating on ~~January~~ July 1, 1970 ~~1995,~~ shall be as follows:

a. The amount required by subsection 2 ~~of this section; or,~~

b. ~~Such lesser~~ An amount as less than that provided for under paragraph "a" which the state bank had on ~~January~~ July 1, 1970 1995, but not less than the minimum amount required by law prior to ~~such~~ that date.

2. The minimum capital of a state bank originally incorporated pursuant to the provisions of this chapter shall not be less than ~~one hundred thousand dollars~~ the amount required by the federal deposit insurance corporation, or its successor, or ~~such higher a~~ greater amount which the superintendent may deem necessary in view of the deposit potential of the state bank and current banking standards relating to total capital requirements.

3. A state bank originally incorporated pursuant to this chapter shall establish, prior to receiving authorization to do business from the superintendent, paid in surplus and undivided profits as required by the superintendent.

Sec. 36. Section 524.404, subsections 1 and 3, Code 1995, are amended to read as follows:

1. A state bank ~~may~~, with the prior approval of the superintendent and the affirmative vote of the holders of ~~at least three-fourths~~ a majority of the shares entitled to vote ~~thereon~~, may issue capital notes or debentures. The amounts, maturities, rate of interest, relative rights with other creditors, and other terms and conditions shall be set forth on the face of the capital notes or debentures or in an attendant agreement, and all ~~such~~ terms and conditions ~~shall be~~ are subject to the prior approval of the superintendent provided that all such capital notes and debentures shall be subordinated to the rights of other persons to the extent provided for in section 524.1312. The aggregate amount of all capital notes and debentures issued and outstanding pursuant to this section shall not exceed, at any one time, twenty-five percent of the aggregate capital and surplus of the state bank.

3. ~~No~~ A state bank ~~may~~ shall not issue capital notes or debentures within five years after it is originally authorized to do business.

Sec. 37. Section 524.405, Code 1995, is amended to read as follows:

524.405 INCREASE OR DECREASE OF CAPITAL STRUCTURE.

1. A state bank ~~may~~, with the approval of the superintendent, may increase its capital structure or effect an allocation of amounts within its capital structure, by the use of any of the following methods:

a. Sale of authorized but unissued shares.

b. Transfer of surplus or undivided profits to capital for authorized but unissued shares.

c. Transfer of undivided profits to surplus.

d. Authorization and issuance of common shares, preferred shares, or capital notes or debentures ~~as provided in section 524.404.~~

2. ~~Whenever~~ The superintendent, whenever it ~~shall appear~~ appears necessary to do so in the interest of the safety of the deposits of a state bank, ~~the superintendent~~ may require that the capital structure of the state bank be increased by either of the methods provided for in subsection 1, paragraphs "a" and "d" ~~of subsection 1.~~

3. ~~Neither capital nor~~ Capital or surplus shall ~~not~~ be decreased except with the approval of the superintendent.

Sec. 38. Section 524.501, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.501 AUTHORIZED SHARES.

1. The articles of incorporation must prescribe the classes of shares and the number of shares of each class that the state bank is authorized to issue. If more than one class of shares is authorized, the articles of incorporation must prescribe a distinguishing designation for each class. Prior to the issuance of shares of a class, the preferences, limitations, and relative rights of that class must be described in the articles of incorporation. All shares of a class must have preferences, limitations, and relative rights identical with those of other shares of the same class except to the extent otherwise permitted by section 524.502.

2. The articles of incorporation must authorize both of the following:
  - a. One or more classes of shares that together have unlimited voting rights.
  - b. One or more classes of shares, which may be the same class or classes as those with voting rights, that together are entitled to receive the net assets of the state bank upon dissolution.
3. The articles of incorporation may authorize one or more classes of shares that have any of the following qualities:
  - a. Have special, conditional, or limited voting rights, or no right to vote, unless prohibited by this chapter.
  - b. Are redeemable or convertible as specified in the articles of incorporation in any of the following ways:
    - (1) At the option of the state bank, the shareholders, or another person or upon the occurrence of a designated event.
    - (2) For cash, indebtedness, securities, or other property.
    - (3) In a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events.
  - c. Preferred shares are redeemable only by resolution of the board of directors with the prior approval of the superintendent. Preferred shares which are redeemable according to the terms of their issuance shall be redeemed only in accordance with such terms. Preferred shares which are redeemed shall be canceled and shall not be reissued. Preferred shares which are not redeemable according to the terms of their issuance are redeemable only pro rata, by lot, or by such other equitable method as determined by the board of directors.
    - d. (1) If preferred shares are redeemed by a state bank, the redemption effects a cancellation of the shares, and a statement of cancellation shall be filed as provided in this paragraph. The filing of the statement of cancellation constitutes an amendment to the articles of incorporation and reduces the number of preferred shares of the class which the state bank is authorized to issue by the number which are canceled.
    - (2) The statement of cancellation shall be executed by the state bank by its president or a vice president and by its cashier or an assistant cashier, and acknowledged by one of the officers signing such statement, and shall set forth all of the following:
      - (a) The name of the state bank and the effective date of its articles of incorporation.
      - (b) The number of preferred shares canceled through redemption, itemized by classes.
      - (c) The aggregate number of issued shares, itemized by classes, after giving effect to the cancellation.
      - (d) The amount, expressed in dollars, of the stated capital of the state bank after giving effect to the cancellation.
      - (e) The number of shares which the state bank has authority to issue, itemized by classes, after giving effect to the cancellation.
    - (3) The statement of cancellation, together with the applicable filing and recording fees, shall be delivered to the superintendent who shall, if the superintendent finds the statement of cancellation satisfies the requirements of this section, deliver it to the secretary of state for filing and recording in the secretary of state's office and the statement of cancellation shall also be filed and recorded in the office of the county recorder. The capital of the state bank is deemed to be reduced by the par value of the shares canceled upon the effective date of the redemption.
  - e. Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative.
  - f. Have preference over any other class of shares with respect to distributions, including dividends and distributions upon the dissolution of the state bank.
4. The description of the designations, preferences, limitations, and relative rights of share classes in subsection 3 is not all-inclusive.
5. Unless the articles of incorporation or bylaws otherwise provide, the board of direc-

tors, by resolution duly adopted and with the approval of the superintendent as provided in section 524.405, may issue from time to time, in whole or in part, the shares authorized by the articles of incorporation.

Sec. 39. NEW SECTION. 524.501A TERMS OF CLASS OR SERIES DETERMINED BY BOARD OF DIRECTORS.

1. If the articles of incorporation provide for such, the board of directors may determine, in whole or in part, the preferences, limitations, and relative rights, within the limits set forth in section 524.501, of either of the following:

- a. A class of shares before the issuance of any shares of that class.
- b. One or more series within a class before the issuance of any shares of that series.
2. Each series of a class must be given a distinguishing designation.
3. All shares of a series must have preferences, limitations, and relative rights identical with those of other shares of the same series and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.
4. Before issuing any shares of a class or series created under this section, the state bank shall deliver to the superintendent for filing with the secretary of state articles of amendment on forms prescribed by the superintendent, which are effective without shareholder action, that set forth all of the following:
  - a. The name of the state bank and the effective date of its articles of incorporation.
  - b. The text of the amendment determining the terms of the class or series of shares.
  - c. The date it was adopted.
  - d. A statement that the amendment was duly adopted by the board of directors.

Sec. 40. Section 524.502, Code 1995, is amended to read as follows:

524.502 CERTIFICATES REPRESENTING SHARES.

~~1. The shares of a state bank shall be represented by certificates signed by such officers, employees, or agents as are authorized by the articles of incorporation or bylaws to sign. If no contrary provisions are made in the articles of incorporation or bylaws, such the certificates shall be signed by the president or a vice president and the cashier or an assistant cashier of the state bank, and may be sealed with the seal of the state bank or a facsimile thereof. The signatures of the president or vice president and the cashier or an assistant cashier or other persons signing for the state bank upon a certificate may be facsimiles if the certificate is countersigned by a transfer agent, or registered by a registrar, other than the state bank itself or an employee of the state bank. In case any officer or other authorized person who has signed or whose facsimile signature has been placed upon such certificate for the state bank shall have ceased to be such officer or employee or agent before such certificate is issued, it may be issued by the state bank with the same effect as if the person were such officer or employee or agent at the date of its issue. If a state bank is authorized to issue preferred shares, every certificate issued by the state bank shall set forth upon the face or back of the certificate, or shall state that the state bank will furnish to any shareholder upon request and without charge, a full statement of the designations, preferences, limitations, and relative rights of such preferred shares.~~

~~Each certificate representing shares shall state upon the face thereof:~~

~~2. Each share certificate must state on its face, at a minimum, all of the following:~~

- ~~1. a. That the The name of the issuing state bank and that it is organized under the laws of this state.~~
- ~~2. b. The name of the person to whom issued.~~
- ~~3. c. The number and class of shares and the designation of the series, if any, which such the certificate represents.~~
- ~~4. d. The par value of each share represented by such the certificate.~~
- ~~3. A state bank which is authorized to issue different classes of shares or different series within a class must do one of the following:~~
  - ~~a. Summarize on the front or back of each certificate the designations, relative rights,~~

preferences, and limitations applicable to each class; the variations in rights, preferences, and limitations determined for each series; and the authority of the board of directors to determine variations for future series.

b. State conspicuously on the front or back of each certificate that the state bank will furnish the shareholder this information on request in writing and without charge.

4. Each share certificate must be signed either manually or in facsimile by two officers as set forth in subsection 1, and may bear the corporate seal or its facsimile.

5. If the person who signed a share certificate no longer holds office when the certificate is issued, the certificate is nevertheless valid.

6. No A certificate shall not be issued for any share until such share is fully paid.

Sec. 41. Section 524.503, Code 1995, is amended to read as follows:

524.503 CONSIDERATION FOR SHARES.

1. Except in the case of a distribution of shares authorized by section 524.517 or shares issued upon exchanges or conversion, common or preferred shares of a state bank may be issued only for cash in an amount which shall be at least:

~~a. In the case of the issuance of additional common shares of an existing state bank, equal to the sum of the capital represented by the common shares and the surplus of the state bank divided by the number of common shares previously issued not less than that determined by the superintendent.~~

~~b. In the case of the issuance of common shares of a proposed state bank, the amount required to equal the sum of the capital, to be represented by the common shares, the surplus and the undivided profits, required by the superintendent as a condition precedent to the issuance of an authorization to do business, divided by the number of shares to be issued.~~

~~2. Preferred shares of a state bank may be issued only for cash and for an amount not less than that determined by the superintendent.~~

Sec. 42. Section 524.504, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.504 SUBSCRIPTION FOR SHARES BEFORE INCORPORATION.

1. A subscription for shares entered into before incorporation of the state bank is irrevocable for six months unless the subscription agreement provides a longer or shorter period, or all subscribers agree to revocation.

2. The board of directors may determine the payment terms of subscriptions for shares that were entered into before incorporation of the state bank unless the subscription agreement specifies the terms. A call for payment by the board of directors must be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

3. Shares issued pursuant to subscriptions entered into before incorporation of the state bank are fully paid and nonassessable when the state bank receives the consideration specified in the subscription agreement.

4. If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation of the state bank, the state bank may do either of the following:

a. Collect the amount owed as any other debt.

b. Unless the subscription agreement provides otherwise, the state bank may rescind the agreement and may sell the shares if the debt remains unpaid more than twenty days after the state bank sends written demand for payment to the subscriber.

Sec. 43. NEW SECTION. 524.504A FRACTIONAL SHARES.

1. A state bank may do any of the following:

a. Issue fractions of a share or pay in money the value of fractions of a share.

b. Arrange for disposition of fractional shares by the shareholders of the state bank.

c. Issue scrip in registered or bearer form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.

2. Each certificate representing scrip must be conspicuously labeled "scrip" and must contain the information required by section 524.502, subsection 2.

3. The holder of a fractional share is entitled to exercise the rights of a shareholder, including the right to vote, to receive dividends, and to participate in the assets of the state bank upon liquidation, but only if the scrip provides for such rights.

4. The board of directors may authorize the issuance of scrip subject to any condition considered desirable, including either of the following:

a. That the scrip will become void if not exchanged for full shares before a specified date.

b. That the shares for which the scrip is exchangeable may be sold and the proceeds paid to the scrip holders.

Sec. 44. Section 524.505, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

**524.505 LIABILITY OF SHAREHOLDERS.**

1. A purchaser of the shares of a state bank is not liable to the bank, its creditors, or depositors with respect to the shares except to pay the consideration for which the shares were authorized to be issued under section 524.501, or the consideration specified in the subscription agreement authorized under section 524.504.

2. Unless otherwise provided in the articles of incorporation, a shareholder of a state bank is not personally liable for the acts or debts of the state bank.

Sec. 45. Section 524.506, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

**524.506 SHAREHOLDERS' PREEMPTIVE RIGHTS.**

1. Unless otherwise provided in section 524.506A, the shareholders of a state bank do not have a preemptive right to acquire the state bank's unissued shares except to the extent provided in the articles of incorporation.

2. A statement included in the articles of incorporation that "the state bank elects to have preemptive rights", or words of similar import, means that, except to the extent otherwise expressly provided in the articles of incorporation, the following principles apply:

a. A shareholder of a state bank has a preemptive right, granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity to exercise the right, to acquire a proportional amount of the state bank's unissued shares upon the decision of the board of directors to issue such shares.

b. A shareholder may waive the shareholder's preemptive right. A waiver evidenced in writing is irrevocable even though it is not supported by consideration.

c. There is no preemptive right with respect to any of the following:

(1) Shares issued as compensation to directors, officers, agents, or employees of the state bank, its subsidiaries, or its affiliates.

(2) Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employees of the state bank, its subsidiaries, or its affiliates.

(3) Shares authorized in articles of incorporation that are issued within six months from the effective date of incorporation.

d. A holder of shares of any class without general voting rights but with preferential rights to distributions or assets has no preemptive rights with respect to shares of any class.

e. A holder of shares of any class with general voting rights but without preferential rights to distributions or assets has no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

f. Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a

consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year is subject to the shareholders' preemptive rights.

3. For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

**Sec. 46. NEW SECTION. 524.506A PREEMPTIVE RIGHTS FOR EXISTING STATE BANKS.**

Notwithstanding contrary provisions of this chapter, a state bank which was incorporated under this chapter prior to July 1, 1995, shall be governed by the following until July 1, 1998:

1. Except to the extent limited or denied by this section or by the articles of incorporation, shareholders have a preemptive right to acquire unissued shares or securities convertible into such shares or carrying a right to subscribe to or acquire shares.

2. Unless otherwise provided in the articles of incorporation:

a. No preemptive right exists with respect to either of the following:

(1) Acquiring any shares issued to directors, officers, or employees pursuant to approval by the affirmative vote of the holders of a majority of the shares entitled to vote or when authorized by and consistent with a plan approved by such vote of the shareholders.

(2) Acquiring treasury shares of the state bank pursuant to section 524.506B.

b. A holder of shares of any class that is preferred or limited as to dividends or assets is not entitled to any preemptive right.

c. A holder of shares of common stock is not entitled to any preemptive right to shares of any class that is preferred or limited as to dividends or assets or to any obligations, unless convertible into shares of common stock or carrying a right to subscribe to or acquire shares of common stock.

d. A holder of common stock without voting power has no preemptive right to shares of common stock with voting power.

e. A preemptive right is only an opportunity to acquire shares or other securities under the terms and conditions as fixed by the board of directors for the purpose of providing a fair and reasonable opportunity for the exercise of the preemptive right.

**Sec. 47. NEW SECTION. 524.506B STATE BANK'S ACQUISITION OF ITS OWN SHARES.**

1. With the prior approval of the superintendent, a state bank may acquire its own shares. Shares acquired pursuant to this section constitute authorized but unissued shares except as provided in subsection 2.

2. If the articles of incorporation prohibit the reissue of acquired shares, the number of authorized shares is reduced by the number of shares acquired, effective upon amendment of the articles of incorporation.

**Sec. 48. Section 524.507, Code 1995, is amended to read as follows:**

**524.507 ~~OWNING OR~~ LOANING ON ITS OWN SHARES.**

~~No A state bank shall not make any loan or extension of credit on the security of the shares of its own capital, or, except as provided in sections 524.1406 and 524.1417, be the purchaser or holder of any such shares, unless such security or purchase shall be is necessary to prevent loss upon a debt previously contracted in good faith, and shares so purchased or acquired shall be sold at public or private sale within one year from the time of their purchase or acquisition, unless the time is extended by the superintendent. Any common shares of a state bank purchased or acquired by the state bank pursuant to this chapter, and sold as directed by this chapter, shall be subject to the minimum consideration requirements of subsection 1 of section 524.503 unless a lesser consideration is approved by the superintendent. Any preferred shares of a state bank purchased or acquired by the state bank pursuant to this chapter, and sold as directed by this chapter, shall be subject to the consideration requirements of subsection 2 of section 524.503.~~

Sec. 49. Section 524.509, Code 1995, is amended to read as follows:

**524.509 NOTICE OF SHAREHOLDER MEETINGS – WAIVER OF NOTICE GENERALLY.**

1. ~~Written or printed~~ notice stating the place, day and hour of a meeting of the shareholders and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than ~~fifty~~ sixty days before the date of the meeting, either personally or by mail, by or at the direction of the president, the cashier, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at ~~such the~~ meeting. If mailed, ~~such the~~ notice ~~shall be~~ is deemed to be delivered when deposited in the United States mail addressed to the shareholder at the shareholder's address as it appears on the stock transfer books of the state bank with postage ~~thereon~~ prepaid.

2. ~~Whenever any notice is required to be given to any shareholder under the provisions of this chapter or under the provisions of the articles of incorporation or bylaws of the state bank, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. A shareholder may waive any notice required by this chapter, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the shareholder entitled to the notice, and be delivered to the state bank for inclusion in the minutes or filing with the corporate records.~~

3. A shareholder's attendance at a meeting results in both of the following:

a. Waives the shareholder's objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting or promptly upon the shareholder's arrival objects to holding the meeting or transacting business at the meeting.

b. Waives the shareholder's objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

4. Unless the articles of incorporation or bylaws provide otherwise, the shareholders may permit any or all shareholders to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all shareholders participating may simultaneously hear each other during the meeting. A shareholder participating in a meeting as provided in this subsection is deemed to be present in person at the meeting.

Sec. 50. **NEW SECTION. 524.509A ACTION WITHOUT MEETING.**

1. Unless the articles of incorporation or bylaws provide otherwise, action required or permitted to be taken under this chapter at a special shareholders' meeting may be taken without a meeting if the action is consented to by all shareholders. The action must be evidenced by one or more written consents describing the action taken, signed by each shareholder, and included in the minutes or filed with the corporate records reflecting the action taken.

2. Action taken under this section is effective when the last shareholder signs the consent, unless the consent specifies a different effective date.

3. A written consent signed under this section has the effect of a meeting vote and may be described as such in any document.

Sec. 51. Section 524.510, Code 1995, is amended to read as follows:

**524.510 CLOSING OF TRANSFER BOOKS AND FIXING RECORD DATE.**

The board of directors of a state bank shall cause adequate stock transfer books to be maintained. ~~For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the board of directors of a state bank may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, fifty days. If the stock~~

~~transfer books shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, such books shall be closed for at least ten days immediately preceding such meeting. In lieu of closing the stock transfer books, the~~ The bylaws, or in the absence of an applicable bylaw, the board of directors may fix, in advance, a date as the record date for any ~~such~~ determination of shareholders entitled to notice of or to vote at a meeting of shareholders, such the date in any case to be not more than fifty seventy days and, in case of a meeting of shareholders, not less than ten days prior to the date on which the particular action, requiring ~~such the~~ determination of shareholders, is to be taken. If ~~the stock transfer books are not closed and no a~~ record date is not fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring such dividend is adopted, as the case may be, shall be the record date for ~~such the~~ determination of shareholders. ~~When~~ If a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, ~~such the~~ determination ~~shall apply~~ applies to any adjournment ~~thereof~~ of the meeting.

Sec. 52. Section 524.511, Code 1995, is amended to read as follows:

524.511 VOTING LIST.

The officer or agent having charge of the stock transfer books for shares of a state bank shall ~~make~~, at least ten days before each meeting of shareholders, make a complete list of the shareholders entitled to vote at ~~such the~~ meeting or any adjournment ~~thereof~~ of the meeting, arranged in alphabetical order, with the address of and the number of shares held by each, which list, for a period of ten days prior to ~~such the~~ meeting, shall be kept on file at the principal place of business of the state bank and ~~shall be is~~ subject to inspection by ~~any a~~ shareholder, or a shareholder's agent or attorney, at any time during usual business hours. ~~Such~~ The list of shareholders shall also be produced and kept open at the time and place of the meeting and ~~shall be is~~ subject to the inspection of ~~any a~~ shareholder, or a shareholder's agent or attorney, during the whole time of the meeting. The original stock transfer books ~~shall be are~~ prima facie evidence as to who are the shareholders entitled to examine ~~such the~~ list or transfer books or to vote at ~~any a~~ meeting of shareholders. Failure to comply with the requirements of this section shall not affect the validity of action taken at ~~such a~~ meeting of shareholders.

Sec. 53. Section 524.512, Code 1995, is amended to read as follows:

524.512 QUORUM OF SHAREHOLDERS.

1. Unless otherwise provided in the articles of incorporation, a majority of the shares entitled to vote, represented in person or by proxy, ~~shall constitute~~ constitutes a quorum at a meeting of shareholders. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by the laws of this state or of the United States or by the articles of incorporation or bylaws.

2. Once a share is represented for any purpose at a meeting, it is deemed present for the purpose of determining a quorum for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

Sec. 54. Section 524.513, Code 1995, is amended to read as follows:

524.513 VOTING OF SHARES.

1. Each outstanding share shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except to the extent that the voting rights of the shares of ~~any preferred class, a class or series~~ may be limited or denied by the articles of incorporation.

2. Shares of a state bank purchased or acquired by such state bank pursuant to this chapter shall not be voted at any meeting and shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite number of shares.

3. A shareholder may vote either in person or by proxy executed in writing by the shareholder or by the shareholder's duly authorized attorney-in-fact. No A proxy shall not be valid after eleven months from the date of its execution.

4. At each election for directors every shareholder entitled to vote at such election shall have the right to vote, in person or by proxy, the number of shares owned by the shareholder for as many individuals as there are directors to be elected and for whose election the shareholder has a right to vote.

~~Shares standing in the name of another corporation, domestic or foreign, may be voted by such officer, agent or proxy as the bylaws of such corporation may prescribe, or, in the absence of such provision, as the board of directors of such corporation may determine.~~

~~Shares held by an administrator, executor, guardian or conservator may be voted by such person, either in person or by proxy, without a transfer of such shares into the person's name. Except as provided in the following sentence, shares standing in the name of a trustee may be voted by the trustee, either in person or by proxy, but no trustee shall be entitled to vote shares held by the trustee without a transfer of such shares into the trustee's name.~~

5. In an election of directors, a state bank may shall not vote its own shares held by it as sole trustee unless under the terms of the trust the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and unless such donor or beneficiary actually directs how such the shares shall be voted, provided, however, that, However, shares held in trust by a state bank pursuant to an instrument in effect prior to January 1, 1970, under the terms of which the manner in which such shares shall be voted could not be determined by a donor or beneficiary of the trust, may be voted in an election of directors of a state bank upon petition filed by the state bank, to a court of competent jurisdiction, and the appointment by such court of an individual to determine the manner in which such the shares shall be voted. When the shares of a state bank are held by such state bank and one or more persons as trustees, such the shares may be voted by such other person or persons as trustees, in the same manner as if the person or persons were the sole trustee. Whenever shares cannot be voted by reason of being held by a state bank as sole trustee, such the shares shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite number of shares.

~~Unless otherwise provided by the governing instrument, shares which are held jointly by any number of fiduciaries shall be voted in the manner determined by the majority of such fiduciaries (excluding a trustee ineligible by reason of the preceding paragraph) or if the fiduciaries are equally divided on the manner of voting, any court of competent jurisdiction may, upon petition filed by any such fiduciaries or any beneficiary, appoint an additional person to act with such fiduciaries in determining the manner in which such shares shall be voted.~~

~~Unless otherwise provided by agreement, if persons holding shares jointly or as tenants in common are unable to agree upon the manner in which such shares shall be voted, the vote of such shares shall be divided among such persons in proportion to their interest.~~

~~Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into the receiver's name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.~~

~~A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.~~

~~On and after the date on which written notice of redemption of preferred shares has been mailed to the holders thereof and a sum sufficient to redeem such shares has been~~

~~deposited in escrow with irrevocable instruction and authority to pay the redemption price to the holders thereof upon surrender of certificates therefor, such shares shall not be entitled to vote on any matter and shall not be deemed to be outstanding shares.~~

Sec. 55. Section 524.514, Code 1995, is amended to read as follows:

524.514 VOTING TRUST.

Any number of shareholders of a state bank may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period of not to exceed ~~twenty ten~~ years, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by depositing a counterpart of the agreement with the state bank at its principal place of business, by delivery of a copy ~~thereof of the voting trust agreement~~ to the superintendent and by transferring their shares to such trustee or trustees for the purposes of the agreement. The counterpart of the voting trust agreement so deposited with the state bank ~~shall be~~ is subject to examination for any proper purpose during usual business hours by a shareholder of the state bank, in person or by agent or attorney, or by any holder of a beneficial interest in the voting trust, in person or by agent or attorney.

This section shall not affect the validity of any agreement, relative to the voting of shares, in effect ~~on January prior to July 1, 1970~~ 1995.

Sec. 56. NEW SECTION. 524.514A VOTING AGREEMENTS.

1. Two or more shareholders may provide for the manner in which they will vote their shares by signing an agreement for that purpose. A voting agreement created under this section is not subject to section 524.514.

2. A voting agreement created under this section is subject to a judicial order for specific enforcement.

Sec. 57. Section 524.516, subsection 2, Code 1995, is amended to read as follows:

2. A dividend ~~may~~ shall not be declared or paid ~~unless the transfer of net profits to surplus required by section 524.402 has been made prior to the declaration of the dividend if restricted by the superintendent.~~

Sec. 58. Section 524.517, subsection 2, Code 1995, is amended to read as follows:

2. ~~No~~ A distribution ~~may~~ shall not be made in authorized but unissued shares of the state bank unless:

a. ~~There shall be transferred to capital an amount equal to the total par value of the shares distributed, and~~

b. ~~Immediately after the distribution, the surplus of the state bank would be at least equal to fifty percent of its~~ is transferred to capital.

Sec. 59. Section 524.520, Code 1995, is amended to read as follows:

524.520 OPTIONS FOR SHARES.

A state bank may authorize the granting of options to officers and employees to purchase unissued, ~~common~~ shares of the state bank in accordance with a plan approved by the superintendent ~~provided the following steps are taken:~~

1. ~~The plan is submitted to a vote of the shareholders at an annual meeting or special meeting called for the purpose, the notice of the meeting contains a complete description of the plan, and the plan receives the affirmative vote of the holders of at least two thirds of the shares entitled to vote thereon.~~

2. ~~The consideration per share shall be determined as of the date the options are granted and shall not be less than the sum of the capital represented by common shares and the surplus of the state bank divided by the number of common shares issued and outstanding on such date, but in no case less than an amount approved by the superintendent.~~

3. ~~Options to purchase shares shall have a termination date and shall not be transferable by the holder of the option during the holder's lifetime. In the event that the option is to survive the death of the holder of the option, the option shall terminate one year after the date of the holder's death but may be exercised by the holder's estate during that one-year period.~~

~~4. Notice of the meeting shall describe the extent to which pre-emptive rights of shareholders are inapplicable to the issuance of shares under this section.~~

~~Upon approval by the shareholders the cashier shall reserve authorized but unissued shares for purposes of this section until the options are exercised or expire.~~

~~Upon approval by the shareholders as provided in subsection 1 of this section, the provisions of section 524.506 inconsistent with this section shall be inapplicable.~~

Sec. 60. Section 524.601, subsection 1, Code 1995, is amended to read as follows:

1. The business and affairs of a state bank shall be managed by a board of five or more directors eighteen years of age or older, a majority of whom shall be citizens residents of this the state of Iowa and ~~all of whom shall be~~ citizens of the United States.

Sec. 61. Section 524.602, Code 1995, is amended to read as follows:

524.602 BOARD OF DIRECTORS – ELECTION.

At the first annual meeting of shareholders and at each annual meeting thereafter the shareholders shall elect directors to hold office until the next succeeding annual meeting. Directors shall hold office for one year ~~and~~ or until their successors have been elected and qualified, unless removed in accordance with provisions of section 524.606. When the shareholders ~~increase~~ determine the number of directors at an annual meeting or at a special meeting, they shall, at the same meeting ~~or at a subsequent meeting~~, elect a director to fill each ~~new~~ directorship ~~created~~.

Sec. 62. Section 524.604, subsections 1 and 4, Code 1995, are amended to read as follows:

1. ~~Reasonably regular attendance at meetings of the board~~ Attendance at no less than seventy-five percent of the regular board meetings held during the calendar year.

4. ~~Utilization of a method to insure the safety of the funds of depositors as provided for in~~ Review of the adequacy of the bank's internal controls and determination of the most appropriate method to satisfy the bank's audit needs pursuant to section 524.608.

Sec. 63. Section 524.605, subsection 3, Code 1995, is amended to read as follows:

3. The directors of a state bank who, willfully or negligently, vote for or assent to ~~any loan loans or extension extensions of credit resulting in an obligation, as defined in subsection 1 of section 524.904, to such state bank~~ in violation of the provisions of this chapter, shall be jointly and severally liable to the state bank for the total amount of any loss sustained ~~as a result of such obligation~~.

Sec. 64. Section 524.606, subsection 1, Code 1995, is amended to read as follows:

1. At a meeting of shareholders expressly called for that purpose, individual directors or the entire board of directors may be removed, with or without cause, by the affirmative vote of the holders of ~~at least two-thirds~~ a majority of the shares entitled to vote at an election of directors. The vacancies created may be filled at the same meeting at which the removal proceedings take place.

Sec. 65. Section 524.607, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The board of directors shall hold ~~at least one meeting~~ nine regular meetings each calendar ~~month~~ year. No more than one regular meeting shall be held in any one calendar month. Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit directors to participate in meetings through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present at the meeting.

PARAGRAPH DIVIDED. A special meeting may be called by ~~the president, a vice president, cashier~~ any executive officer or a director. Notice of a meeting shall be given to each director, either personally or by mail, at least two days in advance of the meeting. Notice

of a regular meeting shall not be required if the articles of incorporation, bylaws, or a resolution of the board of directors provide for a regular monthly meeting date.

Sec. 66. Section 524.608, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.608 AUDITING PROCEDURES.

In addition to any examination made by the banking division or other supervisory agency, the board of directors shall review the adequacy of the bank's internal controls and cause to be made no less frequently than annually additional auditing procedures that the board deems to be appropriate. The board shall determine the bank's audit needs and record in the board's minutes the extent to which audit procedures are to be employed. A report which summarizes significant audit findings shall be delivered to the superintendent as soon as practical upon completion.

The superintendent may require that more comprehensive auditing procedures be applied to a bank's account records when deemed necessary. These auditing procedures may range from limited scope agreed-upon procedures to an unqualified audit opinion.

Sec. 67. Section 524.610, Code 1995, is amended to read as follows:

524.610 COMPENSATION OF DIRECTORS.

The shareholders of a state bank shall fix the reasonable compensation of directors for their services as members of the board of directors. Subject to the approval of the superintendent and approval by the shareholders at an annual or special meeting called for that purpose, the shareholders of a state bank may adopt a pension or profit sharing plan, or both, or other plan of deferred compensation for directors, to which a state bank may contribute.

~~A director who is also a salaried officer or employee of the state bank of which the person is a director shall receive no additional compensation as director.~~ Directors may be reimbursed for reasonable expenses incurred in the performance of their duties.

Sec. 68. Section 524.612, Code 1995, is amended to read as follows:

524.612 DIRECTOR DEALING WITH STATE BANK.

1. ~~The total obligations, as defined in subsection 1 of section 524.904, of a director to a state bank of which the person is a director shall not exceed twenty percent of the capital and surplus of the state bank except that the total obligations of a director to a state bank of which the person is a director shall not exceed forty percent of the capital and surplus of the state bank if the amount by which such obligations exceed twenty percent of the capital and surplus of the state bank shall consist of obligations described in paragraph "a" of subsection 2 of section 524.904. Subject to the provisions of section 524.904, a director of a state bank may receive loans and extensions of credit from a state bank of which the person is a director.~~ A majority of the board of directors, voting in the absence of the applying director, shall give its prior approval to any obligation, as defined in subsection 1 of section 524.904, of a director to the state bank of which the person is a director such loans and extensions of credit. The form of such approval shall be specified by the superintendent, and a copy recorded in the minutes of the board of directors. Approval shall be recorded in the minutes.

2. A director shall not be permitted to receive any loan or extension of credit or use any property of a state bank of which the person is a director at a lower rate of interest ~~or charge than the rate charged~~ or on terms which are more favorable than the terms offered to other customers under similar circumstances.

3. A director shall not ~~receive terms or~~ be paid a ~~higher~~ rate of interest on deposits, by a state bank of which the person is a director, which are more favorable than the rate paid that provided to any other customer under similar circumstances.

4. A director shall not purchase or lease any assets from or sell or lease any assets to a state bank of which the person is a director except upon terms not less favorable to the state bank than those offered to or by other persons. All purchases or leases from and

sales or leases to a director shall receive the prior approval of a majority of the board of directors voting in the absence of the interested director.

5. For the purpose of this section and section 524.706, ~~any obligation loans and extensions of credit~~, as defined in section 524.904, ~~subsection 1, of to the spouse of a director or officer~~, other than a spouse who is legally separated from the director or officer under a decree of divorce or separate maintenance, or to minor children of a director or officer to the state bank in which the person is a director or officer is, are considered an obligation loans and extensions of credit of such director or officer. However, ~~an obligation loans and extensions of credit~~ of a spouse is are not considered ~~an obligation loans and extensions of credit~~ of the director or officer ~~if the officer or director and the spouse of the director or officer maintain separate deposit accounts, for either personal or business purposes, and the funds obtained pursuant to the obligation of the spouse are not commingled with funds of, or used to directly benefit, the officer or director, and the obligation is not guaranteed by the director or officer.~~ if all of the following apply:

a. Assets and liabilities of a director or officer are not included in the financial statement of the spouse and are not otherwise relied upon as a basis for loans or extensions of credit to the spouse.

b. The guarantee of a director or officer is not relied upon as a basis for loans or extensions of credit to the spouse.

c. The proceeds of the loans and extensions of credit to the spouse are not intermingled with or used for a common purpose with the proceeds of loans and extensions of credit to the director or officer.

Sec. 69. Section 524.613, Code 1995, is amended to read as follows:

**524.613 PROHIBITIONS APPLICABLE TO CERTAIN FINANCIAL TRANSACTIONS INVOLVING DIRECTORS.**

1. No A director of a state bank shall:

~~1. Receive not receive anything of value, other than compensation and expense reimbursement authorized by section 524.610, for procuring, or attempting to procure, any loan or extension of credit resulting, or which would result, in an obligation, as defined in subsection 1 of section 524.904, to the state bank or for procuring, or attempting to procure, an investment by the state bank, of which the person is a director.~~

2. Overdraw the director's deposit account in the state bank. A state bank shall not pay an overdraft of a director of the state bank on an account at the state bank, unless the payment of funds is made in accordance with either of the following:

a. A written, preauthorized, interest-bearing extension of credit plan that specifies a method of repayment.

b. A written, preauthorized transfer of collected funds from another account of the account holder at the state bank.

Sec. 70. Section 524.614, Code 1995, is amended to read as follows:

**524.614 HONORARY AND ADVISORY DIRECTORS.**

The board of directors of a state bank may appoint an individual as an honorary director, director emeritus, or member of an advisory board. An individual so appointed may shall not vote at any meeting of the board of directors ~~nor, shall not~~ be counted in determining a quorum, and shall not be charged with any responsibilities or be subject to any liabilities imposed upon directors by this chapter.

Sec. 71. Section 524.701, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

**524.701 OFFICERS AND EMPLOYEES.**

1. A state bank shall have as officers a president, one vice president, and a cashier. No more than two of these positions may be held by the same individual. A state bank may have other officers as prescribed by the articles of incorporation or bylaws.

2. The board of directors shall elect one officer as the chief executive officer, who shall be a member of the board of directors.

3. Upon written notice by the superintendent, an individual who performs active executive or official duties for a state bank may be treated as an executive officer. A state bank may have a chairperson of the board of directors who, if the person does not perform executive or official duties or receive a salary, need not be considered an executive officer of the state bank.

4. An individual employed by a state bank, other than a director or an officer, is considered an employee for the purposes of this chapter.

Sec. 72. Section 524.703, Code 1995, is amended to read as follows:

524.703 OFFICERS AND EMPLOYEES - EMPLOYMENT AND COMPENSATION.

The board of directors may fix the tenure and provide for the reasonable compensation of officers. ~~Upon approval by the board of directors, officers~~ The chief executive officer or the chief executive officer's designee shall determine the employee's compensation and tenure. Officers and employees may be reimbursed for reasonable expenses incurred by them in on behalf of the state bank.

Subject to the approval of the superintendent, and approval by the shareholders at an annual or special meeting called for the purpose, the board of directors of a state bank may adopt a pension or profit-sharing plan, or both, or other plan of deferred compensation, for both officers and employees, to which the state bank may contribute.

Sec. 73. Section 524.705, Code 1995, is amended to read as follows:

524.705 BONDS OF OFFICERS AND EMPLOYEES.

The officers and employees of a state bank having the care, custody, or control of any funds or securities for any state bank shall give a good and sufficient bond in a company authorized to do business in this state indemnifying the state bank against losses, which may be incurred by reason of any act or acts of fraud, dishonesty, forgery, theft, larceny, embezzlement, wrongful abstraction, misapplication, misappropriation, or other unlawful act committed by such officer or employee directly or through connivance with others, until all of the officer's or employee's accounts with the state bank ~~shall have been~~ are fully settled and satisfied. The amounts and sureties ~~shall be~~ are subject to the approval of the board of directors. The superintendent may require higher amounts as deemed necessary. If the agent of a bonding company issuing a bond under this section is an officer or employee of the state bank upon which the bond was issued, the bond so issued shall contain a provision that the bonding company shall not use, either as a grounds for rescission or as a defense to liability under the terms and conditions of the bond, the knowledge that the agent was so employed, whether or not the agent received any part of the premium for ~~such~~ the bond as a commission.

Sec. 74. Section 524.706, Code 1995, is amended to read as follows:

524.706 OFFICER DEALING WITH STATE BANK.

1. a. An executive officer of a state bank may receive loans or extensions of credit from a state bank of which the person is an executive officer, ~~resulting in obligations as defined in section 524.904, subsection 1,~~ not exceeding, in the aggregate, the following:

(1) An amount secured by a lien on a dwelling which is expected, after the obligation is incurred, to be owned by the executive officer and used as the officer's principal residence, ~~provided that after the loan is made there is no other loan by the bank to the executive officer, under authority of this subparagraph, outstanding.~~

(2) An amount to finance the education of a child or children of the executive officer.

(3) Any other loans or extensions of credit which in the aggregate do not at any one time exceed the higher of twenty-five thousand dollars or two point five and one-half percent of the bank's aggregate capital ~~and surplus~~, but in no event more than one hundred thousand dollars.

(4) Other amounts which do not, in the aggregate, exceed the principal amounts of ~~time certificates of deposit in the bank which are held in the name of the executive officer, if~~

~~repayment of the loan or credit amounts is at all times secured by pledge of the certificates segregated deposit accounts which the bank may lawfully set off. An interest in or portion of a time certificate of segregated deposit account does not satisfy the requirements of this subparagraph if that interest or portion is also pledged to secure the payment of a debt or obligation of any person other than the executive officer. If the deposit is eligible for withdrawal before the secured loan matures, the bank shall establish internal procedures to prevent the release of the security without the bank's prior consent.~~

b. A state bank shall not loan money or extend credit to an executive officer of ~~such~~ the state bank, ~~nor shall~~ and an executive officer of a state bank shall not receive a loan or extension of credit from ~~such~~ the state bank, exceeding the limitations imposed by this section or for a purpose other than that authorized by this section. Such loans or extensions of credit shall not exceed an amount totaling more than ~~twenty percent of the capital and surplus~~ fifteen percent of the aggregate capital of the state bank and any such loan on real property shall comply with section 524.905. A majority of the board of directors, voting in the absence of the ~~applying~~ executive officer, whether or not the executive officer is also a director, shall give its prior approval to any obligation of an executive officer to the state bank of which the person is an executive officer. ~~The form of approval shall be specified by the superintendent, and a copy recorded in the minutes of the board of directors. Approval shall be recorded in the minutes.~~

e. ~~For the purposes of this subsection "executive officer" means an officer of a state bank who participates or has authority to participate, otherwise than in the capacity of a director, in major policymaking functions of the bank, regardless of whether the officer has an official title or whether the officer's title contains a designation of assistant and regardless of whether the officer is serving without salary or other compensation. The chairperson of the board, every president, every vice president, the cashier, secretary, and treasurer of a state bank are assumed to be executive officers, unless, by resolution of the board of directors or by the bank's bylaws, but subject to contrary notice by the superintendent as provided for in section 524.701, any such officer is excluded from participation in major policymaking functions, otherwise than in the capacity of a director of the bank, and the officer does not actually participate.~~

2. ~~The provisions of section Section 524.612, subsections subsection 2, 3 and 4, shall apply applies to executive officers, and section 524.612, subsections 3 and 4, apply to all officers and employees.~~

3. ~~If an individual is a director and an officer, the individual shall be subject to the limitations of subsection 1 of this section. Upon the request of the board of directors, an officer or employee of a state bank shall submit to the board of directors a personal financial statement which shall include the names of all persons to whom the officer or employee is obligated, the dates, terms, and amounts of each loan or other obligation, the security for the loan or obligation, and the purpose for which the proceeds of the loan or other obligation has been or is to be used.~~

4. ~~Whenever an officer of a state bank borrows from or otherwise becomes obligated to any person or persons other than the state bank of which the person is an officer, in a total amount equal to or exceeding twenty five thousand dollars excluding such amounts as may be owing by the officer secured by a first lien on a dwelling which is used by the officer as the officer's residence, the officer shall report in writing to the superintendent that the officer is so obligated. Upon the request of the superintendent, a director or an officer of a state bank shall submit to the superintendent, a personal financial statement which shall show the names of all persons to whom the director or officer is obligated, the dates, terms, and amounts of each loan or other obligation, the security therefor for the loan or obligation, and the purpose for which the proceeds of such loans or other obligations have the loan or other obligation has been or are is to be used.~~

Sec. 75. Section 524.707, Code 1995, is amended to read as follows:  
524.707 REMOVAL OF OFFICERS OR EMPLOYEES.

1. ~~Any~~ An officer or employee may be removed by the board of directors whenever in its judgment the best interests of the state bank shall be served ~~thereby by such removal~~, but ~~such the~~ removal shall be without prejudice to the contract rights, if any, of the officer or ~~employee~~ so removed. Election of an officer shall not of itself create contract rights.

2. ~~Subsection 2 of section~~ Section 524.606, providing subsection 2, which provides for the removal of directors by the superintendent, shall have equal application to officers and employees.

Sec. 76. Section 524.708, Code 1995, is amended to read as follows:  
524.708 REPORT OF CHANGE IN OFFICER PERSONNEL.

A state bank shall promptly notify the superintendent of any change in the ~~names of~~ individuals holding the offices of ~~chairperson, chief executive officer or president, vice president, and cashier.~~

Sec. 77. Section 524.710, Code 1995, is amended to read as follows:

524.710 PROHIBITIONS APPLICABLE TO CERTAIN FINANCIAL TRANSACTIONS INVOLVING OFFICERS AND EMPLOYEES.

1. ~~No~~ An officer or employee of a state bank shall ~~not do any of the following:~~

~~1. a. Receive anything of value, other than compensation as authorized by section 524.703, for procuring, or attempting to procure, any loan or extension of credit resulting, or which would result, in an obligation, as defined in subsection 1 of section 524.904, to for the state bank or for procuring, or attempting to procure, an investment by the state bank, of which the person is an officer or employee.~~

~~2. Overdraw the officer's or employee's deposit account in the state bank.~~

~~3. b. Engage, directly or indirectly, in the sale of any kind of insurance, shares of stock, bonds or other securities, or real property, or procure or attempt to procure for a fee or other compensation, a loan or extension of credit for any person from a person other than the state bank of which the person is an officer or employee, or act in any fiduciary capacity, unless authorized to do so by the board of directors of the state bank which shall also determine the manner in which the profits, fees, or other compensation derived therefrom shall be distributed.~~

2. A state bank shall not pay an overdraft of an officer or employee of the state bank on an account at the state bank, unless the payment of funds is made in accordance with either of the following:

a. A written, preauthorized, interest-bearing extension of credit plan that specifies a method of repayment.

b. A written, preauthorized transfer of collected funds from another account of the account holder at the state bank.

Sec. 78. Section 524.801, subsection 1, Code 1995, is amended by striking the subsection.

Sec. 79. Section 524.801, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13. To set off a customer's account against any of the customer's debts or liabilities owed the state bank pursuant to an agreement entered into between the customer and the state bank.

Sec. 80. Section 524.802, Code 1995, is amended to read as follows:

524.802 ADDITIONAL POWERS RELATED TO CONDUCT OF BUSINESS OF A STATE BANK.

A state bank shall have in addition to other powers granted by this chapter, and subject to the limitations and restrictions contained in this chapter, ~~the power to do all of the following:~~

1. ~~The power to become a member of a clearing house association~~ Become an insured bank pursuant to the Federal Deposit Insurance Act and to take action as necessary to maintain the state bank's insured status.

~~2. The power to become~~ Become a member of the federal reserve system, to ~~acquire and hold shares of stock in a the appropriate federal reserve bank, to take all actions incident to maintenance of such membership~~ and to exercise all powers ~~conferred on member banks by the federal reserve system~~ that are not inconsistent with the provisions of this chapter ~~conferred on member banks by the federal reserve system~~.

~~3. The power to become an insured bank pursuant to the federal deposit insurance Act and to take all actions incident to maintenance of an insured status thereunder.~~ Become a member of a clearinghouse association.

~~4. The power to act~~ Act as agent of the United States or of any instrumentality or agency thereof ~~for the sale or issue of bonds, notes or other obligations~~ of the United States.

4A. Act as agent for a depository institution affiliate to the same extent that a national bank can act as an agent for a depository institution under the provisions of section 18 of the Federal Deposit Insurance Act, 12 U.S.C. § 1828.

~~5. The power to buy~~ Buy and sell coin, currency, and bullion.

~~6. All other powers incidental to the conduct of the business of banking.~~ Organize, acquire, and hold shares of stock in an operations subsidiary, with the prior approval of the superintendent.

7. Engage in the brokerage of insurance and real estate subject to the prior approval of the superintendent. These activities are subject to regulation, including but not limited to regulation under Title XIII, subtitle 1 and subtitle 4.

8. Acquire and hold shares of stock in the appropriate federal home loan bank and to exercise all powers conferred on member banks of the federal home loan bank system that are not inconsistent with this chapter. A purchase of federal home loan bank shares which causes the state bank's holdings to exceed fifteen percent of aggregate capital requires the prior approval of the superintendent.

9. Acquire and hold shares of stock in the federal agricultural mortgage corporation or corporations engaged solely in the pooling of agricultural loans for the federal agricultural mortgage corporation guarantees.

10. Become a member of a bankers' bank.

11. Subject to the prior approval of the superintendent, organize, acquire, or invest in a subsidiary for the purpose of engaging in any of the following:

a. Nondepository activities that a state bank is authorized to engage in directly under this chapter.

b. Activities that a bank service corporation is authorized to engage in under state or federal law or regulation.

c. Activities authorized pursuant to section 524.825.

12. Acquire, hold, and improve real estate for the sole purpose of economic or community development, provided that the state bank's aggregate investment in all acquisitions and improvements of real estate under this subsection shall not exceed fifteen percent of a state bank's aggregate capital and shall be subject to the prior approval of the superintendent.

13. All other powers determined by the superintendent to be appropriate for a state bank.

Sec. 81. Section 524.803, Code 1995, is amended to read as follows:

524.803 BUSINESS PROPERTY OF STATE BANK.

1. A state bank shall have power to do all of the following:

a. Acquire and hold, or lease as lessee, such personal property as is used, or is to be used, in its operations.

b. Subject to the prior approval of the superintendent, acquire and hold, or lease as lessee, only such real property as is used, or is to be used, wholly or substantially, in its operations or acquired for future use.

c. Subject to the prior approval of the superintendent, acquire and hold shares in a corporation engaged solely in holding or operating real property used wholly or substantially

by a state bank in its operations or acquired for its future use ~~and in a corporation organized solely for the purpose of providing data processing services, as such services are defined in the first sentence of section 524.804.~~

d. Subject to the prior approval of the superintendent, ~~invest in a bank service corporation as defined by, and in accordance with, the laws of the United States~~ acquire and hold shares in a corporation organized solely for the purpose of providing data processing services, as such services are defined in section 524.804.

e. Subject to the prior approval of the superintendent, acquire and hold shares in a corporation engaged in providing and operating facilities through which banks and customers may engage, by means of either the direct transmission of electronic impulses to and from a bank or the recording of electronic impulses or other indicia of a transaction for delayed transmission to a bank, in transactions in which such banks are otherwise permitted to engage pursuant to applicable law.

f. ~~Organize, acquire, or invest in a subsidiary for the purpose of engaging in any one or more of the following, subject to the prior approval of the superintendent:~~

(1) ~~Nondepository activities that a state bank is authorized to engage in directly under this chapter.~~

(2) ~~Any activity that a bank service corporation is authorized to engage in under state or federal law or regulation.~~

(3) ~~Any activity authorized pursuant to section 524.825.~~

2. The book value of all real and personal property acquired and held pursuant to this section, of all alterations to buildings on real property owned or leased by a state bank, of all shares in corporations acquired pursuant to paragraphs "c", ~~and "d", and "e"~~ of subsection 1 ~~of this section~~, and of any and all obligations of such corporations to the state bank, shall not exceed ~~twenty-five~~ forty percent of the aggregate capital, ~~surplus and undivided profits~~ of the state bank or such larger amount as may be approved by the superintendent.

3. Any real property which is held by a state bank pursuant to this section and which it ceases to use for banking purposes, or is acquired for future use but not used within a reasonable period of time, shall be sold or disposed of by the state bank as directed by the superintendent.

Sec. 82. Section 524.804, Code 1995, is amended to read as follows:

524.804 DATA PROCESSING SERVICES.

A state bank which owns or leases equipment to perform such bank services as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or other clerical, bookkeeping, accounting, statistical, or other similar functions, may provide similarly related data processing services for others whether or not engaged in the business of banking. If a state bank holds shares in a corporation organized solely for the purpose of providing data processing services, pursuant to the authority granted by ~~paragraph "e" of subsection 1 of section 524.803,~~ subsection 1, paragraph "d", other than a bank service corporation as defined by the laws of the United States, such corporation shall be authorized to perform services for the state bank owning such interest and for others, whether or not engaged in the business of banking.

Sec. 83. Section 524.805, subsections 1 and 4, Code 1995, are amended to read as follows:

1. A state bank may receive money for deposit and may provide, by resolution of the board of directors, for the payment of interest ~~thereon in an amount not inconsistent with the provisions of subsection 2 of this section~~ on such deposit and shall repay ~~such~~ the deposit in accordance with the terms and conditions of its acceptance.

4. A state bank may make such charges for the handling or custody of deposits as may be fixed by its board of directors provided that a schedule of ~~such~~ the charges shall be furnished to the customer at the time of acceptance by the state bank of the initial deposit.

Any change in ~~such~~ the charges shall be furnished to the customer within a reasonable ~~amount~~ period of time before the effective date of ~~such~~ the change.

Sec. 84. Section 524.805, subsection 2, Code 1995, is amended by striking the subsection.

Sec. 85. Section 524.809, subsection 1, Code 1995, is amended to read as follows:

1. A state bank may lease safe deposit boxes for the storage of property on terms and conditions prescribed by ~~it~~ the state bank. ~~Such~~ The terms and conditions shall not bind ~~any a customer or the customer's successors or legal representatives~~ to whom the state bank does not give notice ~~thereof~~ of such terms and conditions by delivery of a lease and agreement in writing containing ~~such~~ the terms and conditions. A state bank may limit its liability provided such limitations are set forth in the lease and agreement in at least the same size and type as the other substantive provisions of the ~~contract~~ lease and agreement.

Sec. 86. Section 524.812, subsection 2, Code 1995, is amended to read as follows:

2. If the rental for the safe deposit box has not been paid ~~after~~ prior to the expiration of the period specified in a notice mailed pursuant to subsection 1 of this section, the state bank may, in the presence of two of its officers, cause the box to be opened and the contents removed. An inventory of the contents of the safe deposit box shall be made by the two officers present and the contents held by the state bank for the account of the customer.

Sec. 87. Section 524.825, Code 1995, is amended to read as follows:

#### 524.825 SECURITIES ACTIVITIES.

Subject to the prior approval of the superintendent and as authorized by rules adopted by the superintendent pursuant to chapter 17A, a state bank or a subsidiary of a state bank organized or acquired pursuant to section ~~524.803~~ 524.802, subsection ~~1~~ 11, ~~paragraph "F"~~ may engage in directly, or may organize, acquire, or invest in a subsidiary for the purpose of engaging in securities activities and any aspect of the securities industry, including, but not limited to, any of the following:

1. Issuing, underwriting, selling, or distributing stocks, bonds, debentures, notes, interest in mutual funds or money-market-type mutual funds, or other securities.
2. Organizing, sponsoring, and operating one or more mutual funds.
3. Acting as a securities broker-dealer licensed under chapter 502. The business relating to securities shall be conducted through, and in the name of, the broker-dealer. The requirements of chapter 502 apply to any business of the broker-dealer transacted in this state.

A subsidiary engaging in activities authorized by this section may also engage in any other authorized activities under section ~~524.803~~ 524.802, subsection ~~1~~, ~~paragraph "F"~~ 11.

Sec. 88. Section 524.901, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

#### 524.901 INVESTMENTS.

1. For purposes of this section, unless the context otherwise requires:

a. "Investment securities" means marketable obligations in the form of bonds, notes, or debentures which have been publicly offered, are of sound value, or are secured so as to be readily marketable at a fair value, and are within the four highest grades according to a reputable rating service or represent unrated issues of equivalent value. "Investment securities" does not include investments which are predominately speculative in nature.

b. "Shares" means proprietary units of ownership of a corporation.

2. A state bank shall not invest for its own account more than fifteen percent of its aggregate capital in investment securities of any one obligor. Any premium paid by a state bank for any investment securities shall not be included in determining the amount that may be invested under this subsection.

3. Subject only to the exercise of prudent banking judgment, a state bank may invest for its own account without regard to the limitation provided in subsection 2 in any of the following:

a. Investment securities of the United States of which the payment of principal and interest is fully and unconditionally guaranteed by the United States.

b. Investment securities issued, insured, or guaranteed by a department or an agency of the United States government, provided that the securities, insurance, or guarantee commits the full faith and credit of the United States for the repayment of the securities.

c. Investment securities of the federal national mortgage association or the association's successor.

d. Investment securities of the federal home loan mortgage corporation or the corporation's successor.

e. Investment securities of the student loan marketing association or the association's successor.

f. Investment securities of a federal home loan bank.

g. Investment securities of a farm credit bank.

h. Investment securities representing general obligations of the state of Iowa or of political subdivisions of the state.

4. A state bank may invest without limit in the shares or units of investment companies or investment trusts registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio of which is limited to United States investment securities described in subsection 3 or repurchase agreements fully collateralized by United States investment securities described in subsection 3, if delivery of the collateral is taken either directly or through an authorized custodian and the dollar-weighted average maturity of the portfolio is not more than five years. All other investments by a state bank in the shares or units of investment companies or investment trusts registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, whose portfolios exclusively contain investment securities permissible pursuant to subsections 2 and 3, shall not exceed fifteen percent of the state bank's aggregate capital.

5. To the extent necessary to meet minimum membership or participation criteria, a state bank may invest for its own account in the shares of the appropriate federal reserve bank, the appropriate federal home loan bank, the federal national agricultural mortgage corporation or corporations engaged solely in the pooling of agricultural loans for federal agricultural mortgage corporation guarantees, and other similar investments acceptable to the superintendent and approved in writing by the superintendent. The bank's investment in the shares of each of the organizations is limited to fifteen percent of its aggregate capital or a higher amount as approved by the superintendent. Notwithstanding the specific requirements of this section, any shares of government-sponsored entities held by a state bank on or before July 1, 1995, shall be authorized.

6. A state bank, upon the approval of the superintendent, may acquire and hold the shares of any corporation which a state bank is authorized to acquire and hold pursuant to this chapter.

7. A state bank, upon the approval of the superintendent, may invest up to five percent of its aggregate capital in the shares or equity interests of any of the following:

a. Economic development corporations organized under chapter 496B to the extent authorized by and subject to the limitations of that chapter.

b. Community development corporations or community development projects to the same extent a national bank may invest in such corporations or projects pursuant to 12 U.S.C. § 24.

c. Small business investment companies as defined by the laws of the United States.

d. Venture capital funds which invest an amount equal to at least fifty percent of a state bank's investment in small businesses having their principal offices within this state and

having either more than one-half of their assets within this state or more than one-half of their employees employed within this state.

e. Small businesses having a principal office within this state and having either more than one-half of their assets within this state or more than one-half of their employees employed within this state. An investment by a state bank in a small business under this paragraph shall be included with the obligations of the small business to the state bank that are incurred as a result of the exercise by the state bank of the powers conferred in section 524.902 for the purpose of determining the total obligations of the small business pursuant to section 524.904. A state bank's equity interest investment in a small business, pursuant to this paragraph, shall not exceed a twenty percent ownership interest in the small business.

f. Other entities, acceptable to the superintendent, whose sole purpose is to promote economic or civic developments within a community or this state.

A state bank's total investment in any combination of the shares or equity interests of the entities identified in paragraphs "a" through "f" shall be limited to fifteen percent of its aggregate capital.

For purposes of this subsection, the term "venture capital fund" means a corporation, partnership, proprietorship, or other entity whose principal business is or will be the making of investments in, and the providing of significant managerial assistance to, small businesses. The term "small business" means a corporation, partnership, proprietorship, or other entity which meets the appropriate United States small business administration definition of small business and which is principally engaged in the development or exploitation of inventions, technological improvements, new processes, or other products not previously generally available in this state, or other investments which provide an economic benefit to the state. The term "equity interests" means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability.

8. A state bank, in the exercise of the powers granted in this chapter, may purchase cash value life insurance contracts which may include provisions for the lump sum payment of premiums and which may include insurance against the loss of the lump sum payment. The cash value life insurance contracts purchased from any one company shall not exceed fifteen percent of aggregate capital of the state bank, and in the aggregate from all companies, shall not exceed twenty-five percent of aggregate capital of the state bank unless the state bank has obtained the approval of the superintendent prior to the purchase of any cash value life insurance contract in excess of this limitation.

9. A state bank may invest without limitation for its own account in futures, forward, and standby contracts to purchase and sell any of the instruments a state bank is authorized to purchase and sell, subject to the prior approval of the superintendent and pursuant to applicable federal laws and regulations governing such contracts. Purchase and sale of such contracts shall be conducted in accordance with safe and sound banking practices and with the level of the activity being reasonably related to the state bank's business needs and capacity to fulfill its obligations under the contracts.

Sec. 89. Section 524.903, subsections 2 and 3, Code 1995, are amended to read as follows:

2. A state bank shall not accept such drafts in an amount which exceeds at any time in the aggregate for all drawers ~~thirty~~ fifty percent of its ~~the state bank's aggregate capital and surplus~~ the state bank's aggregate capital. The superintendent may authorize a state bank to accept drafts in an amount not exceeding at any time in the aggregate for all drawers ~~one hundred~~ sixty percent of its ~~the state bank's aggregate capital, and surplus~~ the state bank's aggregate capital, but the aggregate of acceptance growing out of domestic transactions shall in no event exceed ~~thirty~~ fifty percent of ~~such aggregate capital and surplus~~ such aggregate capital.

3. A state bank ~~may~~, with the prior approval of the superintendent, may accept drafts,

having not more than three months after sight to run, drawn upon it by banks or bankers in foreign countries, or in dependencies or insular possessions of the United States, for the purpose of furnishing dollar exchange as required by the usages of trade where the drafts are drawn in an aggregate amount which shall not at any time exceed for all such acceptance on behalf of a single bank or banker ~~ten~~ seven and one-half percent of the state bank's aggregate capital and surplus, and for all such acceptances, ~~fifty~~ thirty percent of ~~the state bank's aggregate capital and surplus~~.

Sec. 90. Section 524.904, Code 1995, is amended by striking the subsection\* and inserting in lieu thereof the following:

**524.904 LOANS AND EXTENSIONS OF CREDIT TO ONE BORROWER.**

1. For purposes of this section, "loans and extensions of credit" means a state bank's direct or indirect advance of funds to a borrower based on an obligation of that borrower to repay the funds or repayable from specific property pledged by the borrower and shall include:

- a. A contractual commitment to advance funds, as defined in section 524.103.
  - b. A maker or endorser's obligation arising from a state bank's discount of commercial paper.
  - c. A state bank's purchase of securities subject to an agreement that the seller will repurchase the securities at the end of a stated period.
  - d. A state bank's purchase of third-party paper subject to an agreement that the seller will repurchase the paper upon default or at the end of a stated period. The amount of the state bank's loan is the total unpaid balance of the paper owned by the state bank less any applicable dealer reserves retained by the state bank and held by the state bank as collateral security. Where the seller's obligation to repurchase is limited, the state bank's loan is measured by the total amount of the paper the seller may ultimately be obligated to repurchase. A state bank's purchase of third-party paper without direct or indirect recourse to the seller is not a loan or extension of credit to the seller.
  - e. An overdraft.
  - f. Amounts paid against uncollected funds.
  - g. Loans or extensions of credit that have been charged off the books of the state bank in whole or in part, unless the loan or extension of credit has become unenforceable by reason of discharge in bankruptcy; or is no longer legally enforceable because of expiration of the statute of limitations or a judicial decision; or forgiven under an executed written agreement by the state bank and the borrower.
  - h. The aggregate rentals payable by the borrower under leases of personal property by the state bank as lessor.
  - i. Loans and extensions of credit to one borrower consisting of investments in which the state bank has invested pursuant to section 524.901.
  - j. Amounts invested by a state bank for its own account in the shares and obligations of a corporation which is a customer of the state bank.
  - k. All other loans and extensions of credit to one borrower of the state bank not otherwise excluded by subsection 7, whether directly or indirectly, primarily or secondarily.
2. A state bank's total outstanding loans and extensions of credit to one borrower shall not exceed fifteen percent of the state bank's aggregate capital as defined in section 524.103, unless the additional lending provisions described in subsections 3, 4, and 5 apply.
3. A state bank may grant loans or extensions of credit to one borrower up to twenty-five percent of the state bank's aggregate capital if the amount that exceeds fifteen percent of the state bank's aggregate capital is fully secured by one or any combination of the following:
- a. Nonnegotiable bills of lading, warehouse receipts, or other documents transferring or securing title covering readily marketable nonperishable staples when such goods are covered by insurance to the extent that insuring the goods is customary, and when the market value of the goods is not at any time less than one hundred twenty percent of the amount of the loans and extensions of credit.

\*The word "section" probably intended

b. Nonnegotiable bills of lading, warehouse receipts, or other documents transferring or securing title covering readily marketable refrigerated or frozen staples when such goods are fully covered by insurance and when the market value of the goods is not at any time less than one hundred twenty percent of the amount of the loans and extensions of credit.

c. Shipping documents or instruments that secure title to or give a first lien on livestock. At inception, the current value of the livestock securing the loans must equal at least one hundred percent of the amount of the outstanding loans and extensions of credit. For purposes of this section, "livestock" includes dairy and beef cattle, hogs, sheep, and poultry, whether or not held for resale. For livestock held for resale, current value means the price listed for livestock in a regularly published listing or actual purchase price established by invoice. For livestock not held for resale, the value shall be determined by the local slaughter price. The bank must maintain in its files evidence of purchase or an inspection and valuation for the livestock pledged that is reasonably current, taking into account the nature and frequency of turnover of the livestock to which the documents relate.

d. Mortgages, deeds of trust, or similar instruments granting a first lien on farm land or on single-family or two-family residences, subject to the provisions of section 524.905, provided the amount loaned shall not exceed fifty percent of the appraised value of such real property.

e. With the prior approval of the superintendent, other readily marketable collateral. The market value of the collateral securing the loans must at all times equal at least one hundred percent of the outstanding loans and extensions of credit.

4. A state bank may grant loans and extensions of credit to a corporate group, including the lending provisions of subsection 3, in an amount not to exceed twenty-five percent of the state bank's aggregate capital. A corporate group includes a person and all corporations in which the person owns or controls fifty percent or more of the shares entitled to vote.

5. A state bank may grant loans or extensions of credit to one borrower not to exceed thirty-five percent of the state bank's aggregate capital if the amount that exceeds the lending provisions provided in subsections 2, 3, and 4 consists of obligations as endorser of negotiable chattel paper negotiated by endorsement with recourse, or as unconditional guarantor of nonnegotiable chattel paper, or as transferor of chattel paper endorsed without recourse subject to a repurchase agreement.

6. For purposes of this section:

a. Loans and extensions of credit to one person will be attributed to another person and will be considered one borrower if either of the following apply:

(1) The proceeds, or assets purchased with the proceeds, benefit another person, other than a bona fide arm's length transaction where the proceeds are used to acquire property, goods, or services.

(2) The expected source of repayment for each loan or extension of credit is the same for each borrower and no borrower has another source of income from which the loan may be fully repaid.

b. Loans and extensions of credit to a partnership, joint venture, or association are deemed to be loans and extensions of credit to each member of the partnership, joint venture, or association. This provision does not apply to limited partners in limited partnerships or to members of joint ventures or associations if the partners or members, by the terms of the partnership or membership agreement or other written agreement, are not to be held generally liable for the debts or actions of the partnership, joint venture, or association, and those provisions are valid under applicable law.

c. Loans and extensions of credit to members of a partnership, joint venture, or association are not attributed to the partnership, joint venture, or association unless loans and extensions of credit are made to the member to purchase an interest in the partnership,

joint venture, or association, or the proceeds are used for a common purpose with the proceeds of loans and extensions of credit to the partnership, joint venture, or association.

d. Loans and extensions of credit to one borrower which are endorsed or guaranteed by another borrower will not be combined with loans and extensions of credit to the endorser or guarantor unless the endorsement or guaranty is relied upon as a basis for the loans and extensions of credit. A state bank shall not be deemed to have violated this section if the endorsement or guaranty is relied upon after inception of loans and extensions of credit, but the state bank shall, if required by the superintendent, dispose of loans and extensions of credit to one borrower in the amount in excess of the limitations of this section within a reasonable time as fixed by the superintendent.

e. When the superintendent determines the interests of a group of more than one borrower, or any combination of the members of the group, are so interrelated that they should be considered a unit for the purpose of applying the limitations of this section, some or all loans and extensions of credit to that group of borrowers existing at any time shall be combined and deemed loans and extensions of credit to one borrower. A state bank shall not be deemed to have violated this section solely by reason of the fact that loans and extensions of credit to a group of borrowers exceed the limitations of this section at the time of a determination by the superintendent that the indebtedness of that group must be combined, but the state bank shall, if required by the superintendent, dispose of loans and extensions of credit to the group in the amount in excess of the limitations of this section within a reasonable time as fixed by the superintendent.

7. Total loans and extensions of credit to one borrower for the purpose of applying the limitations of this section shall not include any of the following:

a. Additional funds advanced for taxes or for insurance if the advance is for the protection of the state bank, and provided that such amounts receive the prior approval of the superintendent.

b. Accrued and discounted interest on existing loans or extensions of credit.

c. Any portion of a loan or extension of credit sold as a participation by a state bank on a nonrecourse basis, provided that the participation results in a pro rata sharing of credit risk proportionate to the respective interests of the originating and participating lenders. Where a participation agreement provides that repayment must be applied first to the portions sold, a pro rata sharing will be deemed to exist only if the agreement also provides that in the event of a default or comparable event defined in the agreement, participants must share in all subsequent repayments and collections in proportion to their percentage participation at the time of the occurrence of the event. If an originating state bank funds the entire loan, it must receive funding from the participants on the same day or the portions funded will be treated as loans by the originating state bank to the borrower.

d. Loans and extensions of credit to one borrower to the extent secured by a segregated deposit account which the state bank may lawfully set off. An amount held in a segregated deposit account in the name of more than one customer shall be counted only once with respect to all borrowers. Where the deposit is eligible for withdrawal before the secured loan matures, the state bank must establish internal procedures to prevent release of the security without the state bank's prior consent.

e. Loans and extensions of credit to one borrower which is a bank.

f. Loans and extensions of credit to one borrower which are fully secured by bonds and securities of the kind in which a state bank is authorized to invest for its own account without limitation under section 524.901, subsection 3.

g. Loans and extensions of credit to a federal reserve bank or to the United States, or of any department, bureau, board, commission, agency, or establishment of the United States, or to any corporation owned directly or indirectly by the United States, or loans and extensions of credit to one borrower to the extent that such loans and extensions of credit are fully secured or guaranteed or covered by unconditional commitments or agreements to

purchase by a federal reserve bank or by the United States, or any department, bureau, board, commission, agency, or establishment of the United States, or any corporation owned directly or indirectly by the United States. Loans and extensions of credit to one borrower secured by a lease on property under the terms of which the United States, or any department, bureau, board, commission, agency, or establishment of the United States, or any corporation owned directly or indirectly by the United States, or the state of Iowa, or any political subdivision of the state, is lessee and under the terms of which the aggregate rentals payable to the borrower will be sufficient to satisfy the amount loaned is considered to be loans and extensions of credit secured or guaranteed as provided for in this paragraph.

h. Loans and extensions of credit to one borrower as the drawer of drafts drawn in good faith against actually existing values in connection with a sale of goods which have been endorsed by the borrower with recourse or which have been accepted.

i. Loans and extensions of credit arising out of the discount of commercial paper actually owned by a borrower negotiating the same and endorsed by a borrower without recourse and which is not subject to repurchase by a borrower.

j. Loans and extensions of credit drawn by a borrower in good faith against actually existing values and secured by nonnegotiable bills of lading for goods in process of shipment.

k. Loans and extensions of credit in the form of acceptances of other banks of the kind described in section 524.903, subsection 3.

l. Loans and extensions of credit of the borrower by reason of acceptances by the state bank for the account of the borrower pursuant to section 524.903, subsection 1.

Sec. 91. Section 524.908, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.908 LEASING OF PERSONAL PROPERTY.

A state bank may make leases as authorized by rules adopted by the superintendent under chapter 17A.

Sec. 92. NEW SECTION. 524.1009 SUCCESSION TO FIDUCIARY ACCOUNTS AND APPOINTMENTS – APPLICATION FOR APPOINTMENT OF NEW FIDUCIARY.

1. If a party to a plan of merger was authorized to act in a fiduciary capacity and if the resulting state or national bank is similarly authorized, the resulting state or national bank shall be automatically substituted by reason of the merger as fiduciary of all accounts held in that capacity by such party to the plan, without further action and without any order or decree of any court or public officer, and shall have all the rights and be subject to all the obligations of such party as fiduciary.

2. No designation, nomination, or appointment as fiduciary of a party to a plan of merger shall lapse by reason of the merger. The resulting state or national bank, if authorized to act in a fiduciary capacity, shall be entitled to act as fiduciary pursuant to each designation, nomination, or appointment to the same extent as the party to the plan so named could have acted in the absence of the merger.

3. Any person with an interest in an account held in a fiduciary capacity by a party to a plan of merger may, within sixty days after the effective date of the merger, apply to the district court in the county in which the resulting state or national bank has its principal place of business, for the appointment of a new fiduciary to replace the resulting state or national bank on the ground that the merger will adversely affect the administration of the fiduciary account. The court shall have the discretion to appoint a new fiduciary to replace the resulting state or national bank if it should find, upon hearing after notice to all interested parties, that the merger will adversely affect the administration of the fiduciary account and that the appointment of a new fiduciary will be in the best interests of the beneficiaries of the fiduciary account. This provision is in addition to any other provision of law governing the removal of fiduciaries and is subject to the terms upon which the party to the plan which held the fiduciary account was designated as fiduciary.

Sec. 93. Section 524.1102, Code 1995, is amended to read as follows:  
524.1102 LOANS AND OTHER TRANSACTIONS WITH AFFILIATES.

~~No~~ A state bank shall not make any loan or any extension of credit to, or purchase securities under repurchase agreement from, any of its affiliates, or invest any of its funds in the shares, bonds, capital securities, or other obligations of ~~any such an~~ affiliate, or accept the shares, bonds, capital securities, or other obligations of ~~any such an~~ affiliate as collateral security for advances made to any customer, if the aggregate amount of ~~such the~~ loans, extensions of credit, repurchase agreements, investments and advances against such collateral security will exceed:

1. In the case of any one ~~such~~ affiliate, ten percent of the aggregate capital ~~and surplus~~ of the state bank. ~~However, a state bank may invest its funds in shares of a bank service corporation pursuant to section 524.803, subsection 1, paragraph f, in an amount up to twenty percent of the capital and surplus of the state bank.~~

2. In the case of all such affiliates, twenty percent of the aggregate capital ~~and surplus~~ of ~~such the~~ state bank.

Within the foregoing limitations, each loan or extension of credit of any kind or character to an affiliate shall be secured by collateral in the form of shares of stock, bonds, capital securities or other such obligations having a market value at the time of making the loan or extension of credit of at least twenty percent more than the amount of the loan or extension of credit, or of at least ten percent more than the amount of the loan or extension of credit if it is secured by obligations of any state, or of any political subdivision or agency of the state, or of at least one hundred percent of the amount of the loan or extension of credit if it is secured by a segregated, ~~earmarked~~ deposit account with which the state bank may set off.

A loan or extension of credit to a director, officer, clerk, or other employee or any representative of any ~~such~~ affiliate ~~shall be~~ is deemed to be a loan to the affiliate to the extent that the proceeds of such loan are used for the benefit of, or transferred to, the affiliate.

The provisions of this section shall not apply to loans or extensions of credit fully secured by obligations of the United States, or the farm credit banks, or the federal home loan banks, or obligations fully guaranteed by the United States as to principal and interest. The provisions of this section shall likewise not apply to indebtedness of any affiliate for unpaid balances due a state bank on assets purchased from ~~such the~~ state bank.

For ~~the~~ purposes of this section, the terms "extension of credit" and "extensions of credit" ~~shall be~~ are deemed to include any purchase of securities under a repurchase agreement, other assets or obligations under a repurchase agreement, and the discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse.

Sec. 94. Section 524.1103, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Which is an operations subsidiary or other subsidiary in which the state bank owns or controls eighty percent or more of the voting shares. However, an operations subsidiary shall not conduct any activity at any location where the state bank itself would not be permitted to conduct that activity without the prior approval of the superintendent.

Sec. 95. Section 524.1202, subsection 2, paragraph d, Code 1995, is amended to read as follows:

d. One such facility ~~that is located on the same property, or that is adjacent to or cornering upon the property on which an office of a bank is located, or that is separated from being adjacent to or cornering upon the property only by a street, alley, or other publicly owned right of way, may be found by the superintendent to be an integral part of that office location and not a separate bank office in the proximity of a state bank's office may be found by the superintendent to be an integral part of the bank office and not a bank office~~ within the meaning of this section. This paragraph does not authorize more than one facility to be found to be an integral part of a bank office.

Sec. 96. Section 524.1301, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.1301 DISSOLUTION BY INCORPORATORS OR INITIAL DIRECTORS.

A majority of the incorporators or initial directors of a state bank that has not issued shares or has not commenced business may dissolve the state bank by delivering articles of dissolution to the superintendent, together with the applicable filing and recording fees, for filing with the secretary of state that set forth all of the following:

1. The name of the state bank.
2. The date of its incorporation.
3. Either of the following:
  - a. That the state bank has not issued any shares.
  - b. That the state bank has not commenced business.
4. That no debt of the state bank remains unpaid.
5. If shares were issued, that the net assets of the state bank remaining after the payment of all necessary expenses have been distributed to the shareholders.
6. That a majority of the incorporators or initial directors authorized the dissolution.

Sec. 97. Section 524.1303, Code 1995, is amended to read as follows:

524.1303 VOLUNTARY DISSOLUTION AFTER COMMENCEMENT OF BUSINESS.

1. A state bank which has commenced business may propose to voluntarily dissolve upon the affirmative vote of the holders of at least ~~three-fourths~~ a majority of the shares entitled to vote ~~thereon~~ on the voluntary dissolution, adopting a plan of dissolution involving both a provision for acquisition of its assets and assumption of its liabilities by another state bank, ~~or national bank, or other financial institution insured by the federal deposit insurance corporation~~ and a provision for continuance of its business if acquisition of its assets and assumption of its liabilities is not effected, or any other plan of dissolution providing for full payment of its liabilities.

2. Upon receipt ~~acceptance for processing~~ of an application for approval of a plan of dissolution on forms prescribed by the superintendent, the superintendent shall conduct such investigation as the superintendent may deem necessary to determine whether the plan adequately protects the interests of depositors, other creditors and shareholders and, if the plan involves an acquisition of assets and assumption of liabilities by another state bank, whether such acquisition and assumption would be consistent with adequate and sound banking and in the public interest, on the basis of factors substantially similar to those set forth in section 524.1403, subsection 1, paragraph "d". ~~Within ninety days after receipt of the application, the superintendent shall approve or disapprove the application on the basis of the superintendent's investigation. Before receiving the decision of the superintendent with respect to the pending application, the applying state bank shall, upon notice, reimburse the superintendent to the extent of the expenses incurred by the superintendent in connection with the application. Thereafter the superintendent shall give to the applying state bank written notice of the superintendent's decision, and in the event of disapproval, a statement of the reasons for the decision. The decision of the superintendent shall be subject to judicial review in accordance with the terms of the Iowa administrative procedure Act.~~

3. ~~When a state bank has proposed to dissolve by adopting a plan of dissolution involving a provision for acquisition of its assets and assumption of its liabilities by another state bank, the dissolving bank shall publish~~ Within thirty days after the application for dissolution involving a provision of acquisition of the state bank's assets and assumption of its liabilities by another state bank is accepted for processing, the dissolving bank shall publish once each week for two consecutive weeks a notice of the proposed transaction. The notice shall be published ~~once each week for two successive weeks~~ in a newspaper of general circulation published in the municipal corporation or unincorporated area in which the dissolving bank has its principal place of business, and in the municipal corporation or unincorporated area in which the acquiring state bank has its principal place of business,

or if there is none, a newspaper of general circulation published in the county or counties, or in a county adjoining the county or counties, in which the dissolving bank and the acquiring bank have their principal place of business. ~~The publication of notice shall be made within thirty days after making application to the superintendent for approval of the plan of dissolution, and proof of publication of the notice shall be delivered to the superintendent. The notice shall set forth the name of the dissolving state bank and of the acquiring state bank, the location and post office address of the principal place of business of the dissolving state bank and of the acquiring state bank and of each office to be maintained by the acquiring state bank and a brief statement of the nature of the proposed transaction. Prior to making a determination on the pending application, the superintendent shall give adequate notice of the pending application, and may afford all interested parties an opportunity for a stenographically reported hearing during which such parties shall be allowed to present evidence in support of, or in opposition to, the pending application. The notice shall be on forms provided by the superintendent, and proof of publication of the notice shall be delivered to the superintendent.~~

~~The superintendent shall conduct such hearing if any interested person files an objection to the pending application and requests a hearing. If the superintendent finds that the superintendent must act immediately on the pending application in order to protect the interests of depositors or the assets of the dissolving bank, the superintendent may proceed without requiring publication of the notice referred to in this subsection.~~

~~4. Within thirty days after the date of the second publication of the notice, any interested person may submit to the superintendent written comments and data on the application. The superintendent may extend the thirty-day comment period if, in the superintendent's judgment, extenuating circumstances exist.~~

~~5. Within thirty days after the date of the second publication of the notice, any interested person may submit to the superintendent a written request for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. If the reasons are related to factual disputes, the disputes shall be described. Comments challenging the legality of an application shall be submitted separately in writing and shall not be considered at a hearing conducted pursuant to this section. Written requests for hearings shall be evaluated by the superintendent, who may grant or deny such requests in whole or in part. A hearing request shall generally be granted only if it is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.~~

~~6. If a request for a hearing has been made and denied, the superintendent shall notify the applicant and all interested persons and shall state the reasons for the denial. Interested persons may submit to the superintendent, with simultaneous copies to the applicant, additional written comments or information on the application within fourteen days after the date of the notice of denial. The applicant shall be provided an additional seven days, after the fourteen-day deadline has expired, within which to respond to any comments submitted within the fourteen-day period. The superintendent may waive this seven-day period upon request by the applicant. A copy of any response submitted by the applicant shall also be mailed simultaneously by the applicant to the interested persons.~~

Sec. 98. Section 524.1304, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

#### 524.1304 VOLUNTARY DISSOLUTION - APPROVAL.

1. Within ninety days after acceptance of the application for processing, the superintendent shall approve or disapprove the application for voluntary dissolution on the basis of the superintendent's investigation. As a condition of receiving the decision of the superintendent with respect to the application, the applying state bank shall reimburse the superintendent for all expenses incurred by the superintendent in connection with the

application. The superintendent shall give to the applying state bank written notice of the superintendent's decision. The decision of the superintendent shall be subject to judicial review pursuant to chapter 17A.

2. Upon approval of the plan of voluntary dissolution by the superintendent, the superintendent shall file with the secretary of state articles of dissolution prepared by the applicant in conformance with section 524.1304A. Upon filing of the articles of dissolution with the secretary of state, the state bank shall cease to accept deposits or carry on its business, except insofar as may be necessary for the proper winding up of the business of the state bank in accordance with the approved plan of dissolution.

3. If applicable state or federal laws require approval by an appropriate state or federal agency, the superintendent may withhold delivery of the approved articles of dissolution until the superintendent receives notice of the decision of such agency. If the final approval of the agency is not given within six months of the superintendent's approval, then the superintendent shall notify the applying state bank that the approval of the superintendent has been rescinded for that reason.

Sec. 99. NEW SECTION. 524.1304A ARTICLES OF DISSOLUTION.

1. At any time after the dissolution of a state bank is authorized, the state bank may dissolve by delivering to the superintendent for filing with the secretary of state articles of dissolution setting forth all of the following:

- a. The name of the state bank.
- b. The date dissolution was authorized.
- c. The number of votes entitled to be cast by the shareholders on the proposal to dissolve.
- d. The total number of shareholder votes cast for and against dissolution, or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval.
- e. If voting by voting groups was required, the information required by paragraphs "c" and "d" must be separately provided for each voting group entitled to vote separately on the plan to dissolve.
- f. That all debts, obligations, and liabilities of the state bank will be paid or otherwise discharged or that adequate provision will be made for such discharge.
- g. That all the remaining property and assets of the state bank will be distributed among its shareholders in accordance with their respective rights and interests.
- h. That there are no legal actions pending against the state bank in any court or that adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending legal action.

2. A state bank is dissolved upon the effective date of its articles of dissolution.

Sec. 100. Section 524.1305, subsections 1, 2, and 3, Code 1995, are amended to read as follows:

1. The board of directors shall have full power to wind up and settle the affairs of a state bank in voluntary dissolution proceedings, including the power to do all of the following:

- a. Collecting the assets of the state bank.
  - b. Disposing of its properties that will not be distributed in kind to its shareholders.
  - c. Discharging or making provision for discharging its liabilities.
  - d. Distributing its remaining property among its shareholders according to their interests.
  - e. Doing every other act necessary to wind up and liquidate its business and affairs.
- 1A. Dissolution of a state bank does not result in any of the following:
- a. Transferring title to the state bank's property.
  - b. Preventing transfer of its shares or securities, although the authorization to dissolve may provide for closing the state bank's share transfer records.
  - c. Subjecting its directors or officers to standards of conduct different from those prescribed by this chapter prior to dissolution.

d. Changing quorum or voting requirements for its board of directors or shareholders; changing provisions for selection, resignation, or removal of its directors or officers or both; or changing provisions for amending its bylaws.

e. Preventing commencement of a proceeding by or against the state bank in its name.

f. Abating or suspending a proceeding pending by or against the state bank on the effective date of dissolution.

2. Within thirty days after ~~the issuance by filing of the articles of dissolution with the secretary of state of an approved copy of the statement of intent to dissolve~~, the state bank shall give notice of its dissolution:

a. By mail to each depositor and creditor, ~~(except those as to whom the liability of the state bank has been assumed by another state bank or national bank financial institution insured by the federal deposit insurance corporation pursuant to the plan)~~, at their last address of record as shown upon the books of the bank, including a statement of the amount shown by the books of the state bank to be due to such depositor or creditor and a demand that any claim for a greater amount be filed with the state bank any time before a specified date at least ninety days after the date of the notice.

b. By mail to each lessee of a safe-deposit box and each customer for whom property is held in safekeeping, ~~(except those as to whom the liability of the state bank has been assumed by another state bank or national bank financial institution insured by the federal deposit insurance corporation pursuant to the plan)~~, at their last ~~known~~ address of record as shown upon the books of the state bank, including a demand that all property held in a safe-deposit box or held in safekeeping by the state bank be withdrawn by the person entitled ~~thereto to the property~~ before a specified date which is at least ninety days after the date of the notice.

c. By mail to each person, at the person's last known address as shown upon the books of the state bank, interested in funds held in a fiduciary account or other representative capacity.

d. By a conspicuous posting at each office of the state bank.

e. By such publication as the superintendent may prescribe.

3. As soon after the ~~issuance of an approved statement of intent to dissolve~~ approval of the plan of dissolution and the filing of the articles of dissolution as feasible, the state bank shall resign all fiduciary appointments and take such action as may be necessary to settle its fiduciary accounts.

Sec. 101. Section 524.1306, subsection 1, Code 1995, is amended to read as follows:

1. A state bank may, at any time prior to the ~~issuance of the approved copy of the statement of intent to dissolve by filing of the articles of dissolution with the secretary of state~~, revoke voluntary dissolution proceedings as provided for in section 490.1404.

Sec. 102. NEW SECTION. 524.1308A KNOWN CLAIMS AGAINST DISSOLVED STATE BANK.

1. A dissolved state bank may dispose of the known claims against it pursuant to this section.

2. The dissolved state bank shall notify its known claimants in writing of the dissolution at any time after the effective date of the dissolution. The written notice must include all of the following:

a. A description of information that must be included in a claim.

b. The mailing address where a claim may be sent.

c. The deadline for submitting a claim, which may not be fewer than one hundred twenty days from the effective date of the written notice, by which the dissolved state bank must receive the claim.

d. A statement that the claim will be barred if not received by the deadline.

3. A claim against the dissolved state bank is barred if either of the following occur:

a. A claimant who was given written notice under subsection 2 does not deliver the claim to the dissolved state bank by the deadline.

b. A claimant whose claim was rejected by the dissolved state bank does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejection notice.

4. For purposes of this section, "claim" does not include a contingent liability or a claim based upon an event occurring after the effective date of dissolution.

Sec. 103. NEW SECTION. 524.1308B UNKNOWN CLAIMS AGAINST DISSOLVED STATE BANK.

1. A dissolved state bank may publish notice of its dissolution and request that persons with claims against the state bank present them in accordance with the notice.

2. A notice made pursuant to this section must satisfy all of the following requirements:

a. Be published at least once in a newspaper of general circulation in the county where the dissolved state bank's principal office is located.

b. Include a description of the information that must be included in a claim and provide a mailing address where the claim may be sent.

c. Include a statement that a claim against the state bank will be barred unless a proceeding to enforce the claim is commenced within two years after the publication of the notice.

3. If the dissolved state bank publishes a newspaper notice pursuant to subsection 2, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved state bank within two years after the publication date of the newspaper notice:

a. A claimant who did not receive written notice under section 524.1308A.

b. A claimant whose claim was timely sent to the dissolved state bank but not acted on.

c. A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

4. A claim may be enforced under this section as follows:

a. Against the dissolved state bank, to the extent of its undistributed assets.

b. If the assets have been distributed in liquidation, against a shareholder of the dissolved state bank to the extent of the shareholder's pro rata share of the claim or the state bank's assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims under this section shall not exceed the total amount of assets distributed to the shareholder in liquidation.

Sec. 104. Section 524.1309, unnumbered paragraph 1, Code 1995, is amended to read as follows:

In lieu of the dissolution procedure prescribed in sections 524.1303 to ~~524.1308~~ 524.1306, a state bank may cease to carry on the business of banking and, after compliance with this section, continue as a corporation subject to chapter 490.

Sec. 105. Section 524.1309, subsections 1, 3, 4, 5, and 10, Code 1995, are amended to read as follows:

1. A state bank which has commenced business may propose to voluntarily cease to carry on the business of banking and become a corporation subject to chapter 490 upon the affirmative vote of the holders of at least ~~three-fourths~~ a majority of the shares entitled to vote ~~thereon~~ on such proposal, adopting a plan involving both a provision for acquisition of its assets and assumption of its liabilities by another state bank, ~~or national bank, or other financial institution insured by the federal deposit insurance corporation~~, and a provision for continuance of its business if acquisition of its assets and assumption of its liabilities is not effected, or any other plan providing for the cessation of banking business and the payment of its liabilities.

3. Immediately upon adoption and approval of a plan to voluntarily cease to carry on the business of banking and become a corporation subject to chapter 490, the state bank shall deliver to the superintendent a ~~statement of its intent~~ plan to cease ~~to carry on~~ the business of banking and become a corporation subject to chapter 490, which shall be

signed by two of its duly authorized officers and shall contain the name of the state bank, the post office address of its principal place of business, the name and address of its officers and directors, the number of shares entitled to vote on the plan and the number of shares voted for or against the plan, respectively, the nature of the business to be conducted by the corporation under chapter 490, and the general nature of the assets to be held by the corporation.

4. ~~If the statement of intent to cease to carry on the business of banking and become a corporation subject to chapter 490 satisfies the requirements of this section, the superintendent shall deliver the statement with written approval to the secretary of state who shall issue to the state bank an approved copy of the statement. Upon the issuance of an approved copy of the statement of intent~~ approval of the plan by the superintendent, the state bank shall immediately surrender to the superintendent its authorization to do business as a bank and shall cease to accept deposits ~~or~~ and carry on the banking business except insofar as may be necessary for it to complete the settlement of its affairs as a state bank in accordance with subsection 5.

5. The board of directors has full power to complete the settlement of the affairs of the state bank. Within thirty days after ~~the issuance of an approved copy of the statement of intent to cease to carry on~~ approval by the superintendent of the plan to cease the business of banking and become a corporation subject to chapter 490, the state bank shall give notice of its intent to persons ~~described in subsection 2 of~~ identified in section 524.1305 ~~and, subsection 3,~~ in the manner provided for in that subsection. In completing the settlement of its affairs as a state bank the state bank shall also follow the procedure prescribed in ~~subsections 3, 4 and 5 of~~ section 524.1305, subsections 3, 4, and 5.

10. A state bank ~~may, at any time prior to the issuance of the approved copy of the statement of intent to cease to carry on the business of banking and become a corporation~~ approval of the articles of intent to become subject to chapter 490, ~~may~~ may revoke the proceedings in the manner prescribed by section 524.1306.

Sec. 106. Section 524.1309, subsection 6, Code 1995, is amended by striking the subsection.

Sec. 107. Section 524.1314, subsection 2, Code 1995, is amended to read as follows:

2. Subsequent to the dissolution of a state bank, other than through the adoption of a plan involving a provision for acquisition of its assets and assumption of its liabilities by another state ~~or bank, national bank, or other financial institution insured by the federal deposit insurance corporation,~~ the superintendent ~~shall~~ may assume custody of the records of the state bank and, ~~if so,~~ shall retain them in accordance with the provisions of section 524.221. The superintendent may make copies of such records in accordance with the provisions of ~~subsection 1 of~~ section 524.221, subsection 1.

Sec. 108. Section 524.1401, Code 1995, is amended to read as follows:

524.1401 AUTHORITY TO MERGE ~~OR CONSOLIDATE.~~

1. Upon compliance with the requirements of this chapter, one or more state banks, ~~or one or more national banks, one or more state associations, one or more federal associations, one or more corporations,~~ or any combination of ~~state and national banks,~~ may merge or consolidate into a national bank or these entities, with the approval of the superintendent, may merge into a state bank ~~or consolidate into a new state bank.~~

2. Upon compliance with the requirements of this chapter, one or more state banks may merge into a national bank. The authority of a state bank to merge ~~or consolidate~~ into a national bank ~~shall be~~ is subject to the condition that at the time of the transaction the laws of the United States shall authorize a national bank located in this state, without approval by the comptroller of the currency of the United States, to merge ~~or consolidate~~ into a state bank under limitations no more restrictive than those contained in this chapter with respect to the merger ~~or consolidation~~ of a state bank into a national bank.

3. Upon compliance with the requirements of this chapter and chapter 534, one or more state banks may merge with one or more state associations or federal associations.

The authority of a state bank to merge into a state or federal association is subject to the conditions the laws of the United States authorize at the time of the transaction.

4. As used in this section, the term "merger" or "merge" means any plan by which the assets and liabilities of an entity are combined with those of one or more other entities, including transactions in which one of the corporate entities survives and transactions in which a new corporate entity is created.

Sec. 109. Section 524.1402, Code 1995, is amended to read as follows:

524.1402 REQUIREMENTS FOR A MERGER ~~OR CONSOLIDATION~~.

The requirements for a merger ~~or consolidation~~ which must be satisfied by the parties ~~thereto to the merger~~ are as follows:

1. The parties shall adopt a plan stating all of the following:
  - a. The names of the ~~banks~~ parties proposing to merge ~~or consolidate~~ and the name of the bank into which they propose to merge, which is the "resulting bank".
  - b. The terms and conditions of the proposed merger ~~or consolidation~~.
  - c. The manner and basis of ~~the converting of the~~ shares of each ~~bank party~~ into shares, obligations, or other securities of the resulting bank or of any other corporation, or, in whole or in part, into cash or other property.
  - d. The rights of the shareholders of each of the parties.
  - e. An agreement concerning the merger ~~or consolidation~~.
  - f. Such other provisions with respect to the proposed merger ~~or consolidation~~ which are deemed necessary or desirable.
2. In the case of a state bank which is a party to the plan, if the proposed merger ~~or consolidation~~ will result in a state bank subject to this chapter, adoption of the plan by such state bank ~~shall require~~ requires the affirmative vote of at least a majority of the directors and approval by the shareholders, in the manner and according to the procedures prescribed in section 490.1103, at a meeting called in accordance with the terms of that section. In the case of a national bank, or if the proposed merger ~~or consolidation~~ will result in a national bank, adoption of the plan by each party ~~thereto to the merger~~ shall require the affirmative vote of at least such directors and shareholders whose affirmative vote ~~thereon on the plan~~ is required under the laws of the United States. Subject to applicable requirements of the laws of the United States in a case in which a national bank is a party to a plan, any modification of a plan which has been adopted shall be made by any method provided ~~therein in the plan~~, or in the absence of such provision, by the same vote as required for adoption.
3. If a proposed merger ~~or consolidation~~ will result in a state bank, application for the required approval by the superintendent shall be made in the manner prescribed by the superintendent. There shall also be delivered to the superintendent, when available, the following:
  - a. Articles of merger ~~or consolidation~~.
  - b. Applicable fees payable to the secretary of state, as specified in section 490.122, for the filing and recording of the articles of merger ~~or consolidation~~.
  - c. If there is any modification of the plan at any time prior to the approval by the superintendent under section 524.1403, an amendment of the application and, if necessary, of the articles of merger ~~or consolidation~~, signed in the same manner as the originals, setting forth the modification of the plan, the method by which ~~such the~~ modification was adopted and any related change in the provisions of the articles of merger ~~or consolidation~~.
  - d. Proof of publication of the notice required by subsection 4 ~~of this section~~.
4. If a proposed merger ~~or consolidation~~ will result in a state bank, within thirty days after the application for merger is accepted for processing, the parties to the plan shall publish, once each week for two consecutive weeks, a notice of the proposed transaction. The notices shall be published in a newspaper of general circulation published in a the municipal corporation or unincorporated area in which each party to the plan has its principal place of business, ~~and in the case of a consolidation, in which the resulting state bank~~

~~is to have its principal place of business, or if there is none, in a newspaper of general circulation published in the county, or in a county adjoining the county, in which each party to the plan has its principal place of business and, in the case of a consolidation, in which the resulting state bank is to have its principal place of business. The notice shall be published once each week for two successive weeks, within thirty days after making application to the superintendent for approval of the plan. The notice shall be on forms prescribed by the superintendent and shall set forth the names of the parties to the plan and the resulting state bank, the location and post office address of the principal place of business of the resulting state bank and of each office to be maintained by the resulting state bank, and the purpose or purposes of the resulting state bank, ~~and the date of delivery of the articles of merger and consolidation to the superintendent.~~~~

4A. Within thirty days after the date of the second publication of the notice required under subsection 4, any interested person may submit to the superintendent written comments and data on the application. Comments challenging the legality of an application shall be submitted separately in writing. The superintendent may extend the thirty-day comment period if, in the superintendent's judgment, extenuating circumstances exist.

4B. Within thirty days after the date of the second publication of the notice required under subsection 4, any interested person may submit to the superintendent a written request for a hearing on the application. The request shall state the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation to the superintendent. If the reasons are related to factual disputes, the disputes shall be described. Written requests for hearings shall be evaluated by the superintendent, who may grant or deny such requests in whole or in part. A hearing request shall generally be granted only if it is determined that written submissions would be inadequate or that a hearing would otherwise be beneficial to the decision-making process. A hearing may be limited to issues considered material by the superintendent.

4C. If a request for a hearing is denied, the superintendent shall notify the applicant and all interested persons and shall state the reasons for the denial. Interested persons may submit to the superintendent, with simultaneous copies to the applicant, additional written comments or data on the application within fourteen days after the date of the notice of denial. The applicant shall be provided an additional seven days, after the fourteen-day deadline has expired, within which to respond to any comments submitted within the fourteen-day period. The superintendent may waive this seven-day period upon request by the applicant. A copy of any response submitted by the applicant shall also be mailed simultaneously by the applicant to the interested persons.

5. The articles of merger ~~or consolidation~~ shall be signed by two duly authorized officers of each party to the plan and shall contain all of the following:

a. The names of the parties to the plan, and of the resulting state bank.  
b. The location and the post office address of the principal place of business of each party to the plan, and of each additional office maintained by the parties to the plan, and the location and post office address of the principal place of business of the resulting state bank, and of each additional office to be maintained by the resulting state bank.

c. The votes by which the plan was adopted, and the ~~time~~ date and place of each meeting in connection with such adoption.

d. The number of directors constituting the board of directors, and the names and addresses of the individuals who are to serve as directors until the next annual meeting of the shareholders or until their successors be elected and qualify.

e. ~~In the case of a merger, any~~ Any amendment of the articles of incorporation of the resulting state bank.

f. ~~In the case of a consolidation, the provisions required in the articles of incorporation of a state bank by section 524.302, subsections 3 to 7.~~

g. f. The plan of merger ~~or consolidation~~.

6. If a proposed merger ~~or consolidation~~ will result in a national bank, a state bank which is a party to the plan shall do all of the following:

- a. Notify the superintendent of the proposed merger ~~or consolidation~~.
- b. Provide such evidence of the adoption of the plan as the superintendent may request.
- c. Notify the superintendent of any abandonment or disapproval of the plan.
- d. File with the superintendent and with the secretary of state ~~a certificate~~ evidence of approval of the merger ~~or consolidation~~ by the comptroller of the currency of the United States.
- e. Notify the superintendent of the date upon which ~~such~~ the merger ~~or consolidation~~ is to become effective.

Sec. 110. Section 524.1403, Code 1995, is amended to read as follows:

524.1403 APPROVAL OF MERGER ~~OR CONSOLIDATION~~ BY SUPERINTENDENT.

1. Upon receipt of an application for approval of a merger ~~or consolidation~~ and of the supporting items required by section 524.1402, subsection 3, the superintendent shall conduct such investigation as the superintendent deems necessary to ascertain ~~whether~~ the following:

a. The articles of merger ~~or consolidation~~ and supporting items satisfy the requirements of this chapter.

b. The plan and any modification ~~thereof~~ of the plan adequately protects the interests of depositors, other creditors and shareholders.

c. The requirements for a merger ~~or consolidation~~ under all applicable laws have been satisfied and the resulting state bank would satisfy the requirements of this chapter with respect to it.

d. The merger ~~or consolidation~~ would be consistent with adequate and sound banking and in the public interest on the basis of the financial history and condition of the parties to the plan, including the adequacy of the capital structure of the resulting state bank, the character of the management of the resulting state bank, the potential effect of the merger ~~or consolidation~~ on competition, and the convenience and needs of the area primarily to be served by the resulting state bank.

2. Within one hundred eighty days after ~~receipt~~ acceptance of the application for processing, or within an additional period of not more than sixty days after receipt of an amendment of the application, the superintendent shall ~~determine whether to~~ approve or disapprove the application on the basis of the investigation. The plan shall not be modified at any time after approval of the application by the superintendent. ~~Prior to making a determination on the pending application the superintendent shall give adequate notice of the pending application, and may afford all interested persons an opportunity for a stenographically reported hearing during which such persons shall be allowed to present evidence in support of, or in opposition to, the pending application.~~

~~The superintendent shall conduct such hearing if any interested person files an objection to the pending application and requests a hearing. If the superintendent finds that the superintendent must act immediately on the pending application in order to protect the interests of depositors or the assets of any party to the plan, the superintendent may proceed without requiring publication of the notice referred to in this subsection required under section 524.1402, subsection 4. Before~~ As a condition of receiving the decision of the superintendent with respect to the pending application, the parties to the plan shall, upon notice, reimburse the superintendent to the extent of for all the expenses incurred in connection with the application. Thereafter the The superintendent shall give to the parties to the plan written notice of the decision and, in the event of disapproval, a statement of the reasons for the decision. The decision of the superintendent shall be subject to judicial review ~~in accordance with~~ pursuant to chapter 17A.

Sec. 111. Section 524.1404, Code 1995, is amended to read as follows:

524.1404 PROCEDURE AFTER APPROVAL BY THE SUPERINTENDENT – ISSUANCE OF CERTIFICATE OF MERGER ~~OR CONSOLIDATION~~.

If the applicable state or federal laws of the United States require the approval of the merger or consolidation by any a federal or state agency, the superintendent shall, after the superintendent's approval, retain the ~~may withhold delivery of the approved~~ articles of merger or consolidation until the superintendent receives notice of the decision of such agency. If the final approval of the agency is not given within six months of the superintendent's approval, the superintendent shall notify the parties to the plan that the approval of the superintendent has been rescinded for that reason. If such agency gives its approval, the superintendent shall deliver the articles of merger or consolidation, with the superintendent's approval indicated ~~thereon on the~~ articles, to the secretary of state, and shall notify the parties to the plan. The receipt of the approved articles of merger or consolidation by the secretary of state shall ~~constitute~~ constitutes filing ~~thereof of the articles of merger~~ with that office. The secretary of state shall record the articles of merger or consolidation in the secretary of state's office, and the ~~same~~ articles shall be filed and recorded in the office of the county recorder in each county in which the parties to the plan had previously maintained a principal place of business ~~and, in the case of a consolidation, in the county in which the new state bank is to maintain its principal place of business~~. On the date upon which the merger or consolidation is effective the secretary of state shall issue a certificate of merger or consolidation and send the same to the resulting state bank and a copy ~~thereof of the certificate of merger~~ to the superintendent.

Sec. 112. Section 524.1405, subsection 1, Code 1995, is amended to read as follows:

1. The merger or consolidation shall be is effective upon the filing of the articles of merger or consolidation with the secretary of state, or at any later date and time as specified by the superintendent in writing on the articles of merger or consolidation. The certificate of merger or consolidation shall be is conclusive evidence of the performance of all conditions precedent to the merger or consolidation, and of the existence or creation of the resulting state bank, except as against the state.

Sec. 113. Section 524.1405, subsections 2 and 3, Code 1995, are amended by striking the subsections and inserting in lieu thereof the following:

2. When a merger takes effect all of the following apply:

a. Every other financial institution to the merger merges into the surviving financial institution and the separate existence of every party except the surviving financial institution ceases.

b. The title to all real estate and other property owned by each party to the merger is vested in the surviving party without reversion or impairment.

c. The surviving party has all liabilities of each party to the merger.

d. A proceeding pending against any party to the merger may be continued as if the merger did not occur or the surviving party may be substituted in the proceeding for the party whose existence ceased.

e. The articles of incorporation of the surviving party are amended to the extent provided in the articles of merger.

f. The shares of each party to the merger that are to be converted into shares, obligations, or other securities of the surviving party or any other corporation or into cash or other property are converted, and the former holders of the shares are entitled only to the rights provided in the articles of merger or to their rights under division XIII of this chapter.

Sec. 114. Section 524.1406, Code 1995, is amended to read as follows:

524.1406 RIGHTS OF DISSENTING SHAREHOLDERS.

1. A shareholder of a state bank, which is a party to a proposed merger or consolidation plan which will result in a state bank subject to this chapter, who objects to the plan is entitled to the rights and remedies of a dissenting shareholder as provided in chapter 490, division XIII. ~~Shares acquired by a state bank pursuant to payment of their agreed value or~~

~~to payment of the judgment entered therefor, pursuant to chapter 490, division XIII, shall be sold at public or private sale, within one year from the time of their purchase or acquisition, unless the time is extended by the superintendent.~~

2. If a shareholder of a national bank which is a party to a proposed merger ~~or consolidation~~ plan which will result in a state bank, or a shareholder of a state bank which is a party to a plan which will result in a national bank, ~~shall object~~ objects to the plan and ~~shall comply~~ complies with the requirements of the applicable laws of the United States, the resulting state bank or national bank, as the case may be, ~~shall be is~~ is liable for the value of the shareholder's shares as determined in accordance with such laws of the United States. ~~Shares acquired by a state bank pursuant to this subsection shall be sold at public or private sale within one year from the time of their purchase or acquisition, unless the time is extended by the superintendent.~~

Sec. 115. Section 524.1408, Code 1995, is amended to read as follows:

524.1408 MERGER OF CORPORATION SUBSTANTIALLY OWNED BY A STATE BANK.

A state bank owning at least ~~ninety-five~~ ninety percent of the outstanding shares, of each class, of another corporation which it is authorized to own under this chapter, may merge the other corporation into itself without approval by a vote of the shareholders of either the state bank or the subsidiary corporation. The board of directors of the state bank shall approve a plan of merger, mail to shareholders of record of the subsidiary corporation, and prepare and execute articles of merger in the manner provided for in section 490.1104. The articles of merger, together with the applicable filing and recording fees, shall be delivered to the superintendent who shall, if the superintendent approves of the proposed merger and if the superintendent finds the articles of merger satisfy the requirements of this section, deliver them to the secretary of state for filing and recording in the secretary of state's office, and they shall be filed in the office of the county recorder. The secretary of state upon filing the articles of merger shall issue a certificate of merger and send the certificate to the state bank and a copy of it to the superintendent.

Sec. 116. Section 524.1411, subsections 3 and 5, Code 1995, are amended to read as follows:

3. The votes by which the plan of conversion was adopted and the ~~time~~ date and place of each meeting in connection with the adoption.

5. The provisions required in the articles of incorporation by ~~subsections 3, 4, 5, 6, and 7~~ of section 524.302, subsection 1, paragraphs "c" and "d", and subsection 2, paragraph "b".

Sec. 117. Section 524.1412, Code 1995, is amended to read as follows:

524.1412 PUBLICATION OF NOTICE.

~~The~~ Within thirty days after the application for conversion has been accepted for processing, the national bank shall publish a notice of ~~its intention to deliver,~~ or the delivery of, the articles of conversion to the superintendent; once each week for two successive weeks in a newspaper of general circulation published in the municipal corporation or unincorporated area in which the national bank has its principal place of business, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the national bank has its principal place of business. The notice shall ~~appear prior to, or within seven days after, the date of delivery of the articles of conversion to the superintendent and shall set forth all of the following:~~

1. The name of the national bank and the name of the resulting state bank.
2. The location and post office address of its principal place of business.
3. A statement that articles of conversion ~~are to be,~~ or have been delivered to the superintendent.
4. The purpose or purposes of the resulting state bank.
5. The date of delivery of the articles of conversion to the superintendent.

Sec. 118. Section 524.1413, Code 1995, is amended to read as follows:  
524.1413 APPROVAL OF CONVERSION BY SUPERINTENDENT.

Upon receipt ~~acceptance~~ of processing of an application for approval of a conversion, the superintendent shall conduct such investigation as the superintendent ~~may deem~~ deems necessary to ascertain ~~whether~~ the following:

1. The articles of conversion and supporting items satisfy the requirements of this chapter.
2. The plan adequately protects the interests of depositors.
3. The requirements for a conversion under all applicable laws have been satisfied and the resulting state bank would satisfy the requirements of this chapter applicable to it.
4. The resulting state bank will possess an adequate capital structure.

Within ninety days after receipt ~~of the application~~ has been accepted for processing, the superintendent shall ~~make a determination whether to approve or disapprove the pending application on the basis of the investigation. Before~~ As a condition of receiving the decision of the superintendent with respect to the pending application, the national bank shall, upon notice, reimburse the superintendent to the extent of the for all expenses incurred in connection with the application. Thereafter, the ~~The~~ superintendent shall give the national bank written notice of the decision and, in the event of disapproval, a statement of the reasons for the decision. If the superintendent approves the pending application, the superintendent shall deliver the articles of conversion, with the superintendent's approval indicated ~~thereon~~ on the articles of conversion, to the secretary of state. The decision of the superintendent shall be subject to judicial review ~~in accordance with the terms of the Iowa administrative procedure Act pursuant to chapter 17A.~~ Notwithstanding the terms of said the Iowa administrative procedure Act, ~~such~~ chapter 17A, a petition for judicial review must be filed within thirty days after the superintendent notifies the national bank of the superintendent's decision.

Sec. 119. Section 524.1414, Code 1995, is amended to read as follows:  
524.1414 ISSUANCE OF CERTIFICATE OF CONVERSION.

The receipt of the approved articles of conversion by the secretary of state ~~shall constitute~~ constitutes filing ~~thereof of the articles of conversion~~ with that office. The secretary of state shall record the articles of conversion ~~in the secretary's office~~, and the ~~same~~ articles shall be filed and recorded in the office of the county recorder in the county in which the resulting state bank has its principal place of business. ~~On the date upon which the conversion is effective, the secretary of state shall issue a certificate of conversion and send the same to the resulting state bank and a copy thereof to the superintendent and the superintendent shall issue to the resulting state bank an authorization to do business.~~

Sec. 120. Section 524.1415, subsection 1, Code 1995, is amended to read as follows:

1. The conversion ~~shall be~~ is effective upon the filing of the articles of conversion with the secretary of state, or at any later date and time ~~as specified by the superintendent in writing on the articles of conversion.~~ The certificate of conversion ~~shall be~~ is conclusive evidence of the performance of all conditions required by this chapter for conversion of a national bank into a state bank, except as against the state.

Sec. 121. Section 524.1415, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The title to all real estate and other property owned by the converting national bank is vested in the resulting state bank without reversion or impairment.

Sec. 122. Section 524.1417, subsection 1, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

1. A shareholder of a state bank which converts into a national bank who objects to the plan of conversion is entitled to the rights and remedies of a dissenting shareholder as provided in chapter 490, division XIII.

Sec. 123. Section 524.1417, subsection 2, Code 1995, is amended to read as follows:

2. If a shareholder of a national bank, which converts into a state bank, ~~shall object~~ objects to the plan of conversion and ~~shall comply~~ complies with the requirements of applicable laws of the United States, the resulting state bank ~~shall be~~ is liable for the value of the shareholder's shares as determined in accordance with such laws of the United States. ~~Shares acquired by a state bank pursuant to this subsection shall be sold at public or private sale, within one year from the time of purchase or acquisition, unless the time is extended by the superintendent.~~

Sec. 124. Section 524.1418, Code 1995, is amended to read as follows:

524.1418 SUCCESSION TO FIDUCIARY ACCOUNTS AND APPOINTMENTS - APPLICATION FOR APPOINTMENT OF NEW FIDUCIARY.

The provisions of section ~~524.1407~~ 524.1009 apply to a resulting state or national bank after a conversion with the same effect as though ~~such~~ the state or national bank were a party to a plan of merger ~~or consolidation~~, and the conversion were a merger ~~or consolidation~~, within the provisions of that section.

Sec. 125. Section 524.1419, Code 1995, is amended to read as follows:

524.1419 OFFICES OF A RESULTING STATE BANK.

If a merger, ~~consolidation~~ or conversion results in a state bank subject to the provisions of this chapter, the resulting state bank ~~shall~~, after the effective date of the merger, ~~consolidation~~ or conversion, shall be subject to ~~all~~ the provisions of sections 524.1201, 524.1202, and 524.1203 relating to the bank offices.

Sec. 126. Section 524.1420, Code 1995, is amended to read as follows:

524.1420 NONCONFORMING ASSETS OF RESULTING STATE BANK.

If a merger, ~~consolidation~~ or conversion results in a state bank subject to the provisions of this chapter, and the resulting state bank has assets which do not conform with the provisions of this chapter, the superintendent may allow the resulting state bank a reasonable time to conform with state law.

Sec. 127. Section 524.1501, Code 1995, is amended to read as follows:

524.1501 RIGHT AUTHORITY TO AMEND.

A state bank ~~may~~, with the approval of the superintendent and in the manner provided in this chapter, may amend its articles of incorporation in order to make any change ~~therein~~ in the articles of incorporation so long as ~~its~~ the articles of incorporation as amended contain only ~~such~~ provisions as might be lawfully contained in the original articles of incorporation at the time of making ~~such~~ the amendment.

Sec. 128. Section 524.1503, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.1503 VOTING ON AMENDMENTS BY VOTING GROUPS.

1. The holders of the outstanding shares of a class are entitled to vote as a separate voting group on a proposed amendment if the amendment does any of the following:

- a. Increases or decreases the aggregate number of authorized shares of the class.
- b. Increases or decreases the par value of the shares of the class.
- c. Effects an exchange or reclassification of all or part of the shares of the class into shares of another class or effects a cancellation of all or part of the shares of the class.
- d. Effects an exchange or reclassification, or creates the right of exchange, of all or part of the shares of another class into shares of that class.
- e. Changes the designation, rights, preferences, or limitations of all or part of the shares of the class.
- f. Changes the shares of all or part of the class into a different number of shares of the same class.
- g. Creates a new class of shares having rights or preferences with respect to distributions or to dissolution that are prior, superior, or substantially equal to the shares of the class.

h. Increases the rights, preferences, or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that are prior, superior, or substantially equal to the shares of the class.

i. Limits or denies an existing preemptive right of all or part of the shares of the class.

j. Cancels or otherwise affects rights to distributions or dividends that have accumulated but not yet been declared on all or part of the shares of the class.

2. If a proposed amendment would affect a series of a class of shares in one or more of the ways described in subsection 1, the shares of that series are entitled to vote as a separate voting group on the proposed amendment.

3. If a proposed amendment that entitles two or more series of shares to vote as separate voting groups under this section would affect those two or more series in the same or a substantially similar way, the shares of all the series so affected must vote together as a single voting group on the proposed amendment.

4. A class or series of shares is entitled to the voting rights granted by this section although the articles of incorporation provide that the shares are nonvoting shares.

Sec. 129. Section 524.1504, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. The place, ~~and~~ date ~~and hour~~ of the meeting of shareholders at which the amendment was adopted, and the kind and period of notice given to the shareholders.

Sec. 130. Section 524.1506, Code 1995, is amended to read as follows:

524.1506 CERTIFICATE OF AMENDMENT —EFFECT.

1. The secretary of state shall record the articles of amendment ~~in the secretary's office, and the same~~ articles of amendment shall be filed ~~and recorded~~ in the office of the county recorder in the county in which the state bank has its principal place of business. The secretary of state upon the filing of the articles of amendment shall issue a certificate of amendment and send the same to the state bank.

2. Upon the issuance of the certificate of amendment by the secretary of state, the amendment ~~shall become~~ becomes effective and the articles of incorporation ~~shall be~~ are deemed to be amended accordingly. ~~No amendment shall affect the existing rights of persons other than shareholders, or any existing cause of action in favor of or against such state bank, or any pending suit to which such state bank shall be a party, and, in the event the name of the state bank shall be changed by amendment, no suit brought by or against such state bank under its former name shall abate for that reason.~~

Sec. 131. Section 524.1508, Code 1995, is amended to read as follows:

524.1508 ~~RESTATEMENT OF~~ RESTATED ARTICLES OF INCORPORATION.

A state bank may at any time restate its articles of incorporation, which may be amended by ~~such~~ the restatement, so long as its articles of incorporation as ~~so~~ restated contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making ~~such~~ the restatement, ~~by the adoption of restated. Restated~~ articles of incorporation, including any amendments to its articles of incorporation to be made thereby, shall be adopted in the following manner:

1. The board of directors shall adopt a resolution setting forth the proposed restated articles of incorporation, which may include an amendment or amendments to the articles of incorporation of the state bank to be made thereby, and directing that ~~such~~ the restated articles, including such amendment or amendments, be submitted to a vote at a meeting of shareholders, which may be either an annual meeting or a special meeting.

2. Written or printed notice setting forth the proposed restated articles or a summary of the provisions ~~thereof of the proposed restated articles~~ shall be given to each shareholder of record entitled to vote ~~thereon on the proposed restated articles~~ within the time and in the manner provided in section 524.509. If the meeting be an annual meeting, the proposed

restated articles may be included in the notice of such annual meeting. If the restated articles include an amendment or amendments to the articles of incorporation ~~to be made thereby~~, the notice shall separately set forth such amendment or amendments or a summary of the changes to be effected ~~thereby by the amendment or amendments~~.

3. At ~~such~~ the meeting a vote of the shareholders entitled to vote ~~thereon on the proposed restated articles~~ shall be taken on the proposed restated articles. The proposed restated articles shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares entitled to vote ~~thereon~~, unless such restated articles include an amendment to the articles of incorporation ~~to be made thereby~~ which, if contained in a proposed amendment to articles of incorporation to be made without restatement of the articles of incorporation, would entitle a class of shares to vote as a class ~~thereon on the proposed restated articles~~, in which event the proposed restated articles shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote ~~thereon on the proposed restated articles~~ as a class, and of the total shares entitled to vote ~~thereon on the proposed restated articles~~.

Upon ~~such~~ approval, restated articles of incorporation shall be executed by the state bank by its president or vice president and by its cashier or an assistant cashier, and verified by one of the officers signing the ~~same~~ restated articles, and shall set forth, as then stated in the articles of incorporation of the state bank and, if the restated articles of incorporation included an amendment or amendments to the articles of incorporation ~~to be made thereby~~, as so amended, the material and contents described in section 524.302.

The restated articles of incorporation shall set forth also a statement that they correctly set forth the provisions of the articles of incorporation as ~~theretofore or thereby~~ amended, that they have been duly adopted as required by law and that they supersede the original articles of incorporation and all amendments ~~thereto to the original articles of incorporation~~.

The restated articles of incorporation shall be delivered to the superintendent together with the applicable fees for the filing and recording of the restated articles of incorporation. The superintendent shall conduct such investigation and give approval or disapproval, ~~all as in the manner provided for in section 524.1505~~. If the superintendent ~~shall approve~~ approves the restated articles of incorporation, the superintendent shall deliver them with the written approval on the restated articles of incorporation to the secretary of state for filing, ~~and recording in the secretary's office and the same restated articles of incorporation~~ shall be filed ~~and recorded~~ in the office of the county recorder. The secretary of state upon filing the restated articles of incorporation shall issue a restated certificate of incorporation and send the ~~same~~ certificate to the state bank or its representative.

Upon the issuance of the restated certificate of incorporation by the secretary of state, the restated articles of incorporation including any amendment or amendments to the articles of incorporation ~~made thereby, shall become~~ are effective and shall supersede the original articles of incorporation and all amendments ~~thereto to the original articles of incorporation~~.

~~No amendment shall affect the existing rights of persons other than shareholders, or any existing cause of action in favor of or against such state bank, or any pending suit to which such state bank shall be a party; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such state bank under its former name shall abate for that reason.~~

Sec. 132. NEW SECTION. 524.1509 REVERSE STOCK SPLIT.

A state bank may effect a reverse stock split or similar change in capital structure by renewal, amendment, or restatement of existing articles of incorporation, provided the requirements of the superintendent are satisfied.

Sec. 133. NEW SECTION. 524.1510 EFFECT OF AMENDMENT.

An amendment to the articles of incorporation does not affect a cause of action existing

against or in favor of the state bank, a proceeding to which the state bank is a party, or the existing rights of persons other than shareholders of the state bank. An amendment changing the state bank's name does not abate a proceeding brought by or against the state bank in its former name.

Sec. 134. Section 524.1806, Code 1995, is amended to read as follows:

524.1806 BANKS OWNED OR CONTROLLED – OFFICERS AND DIRECTORS.

~~If any An individual who is a director or an officer, or both, of a bank holding company, or of a bank which is owned or controlled by a bank holding company in any manner, and to the extent, as specified by section 524.1801, such individual shall also be is~~ deemed to be a director or an officer, or both, as the case may be, of each bank so owned or controlled by that bank holding company, for the purposes of sections 524.612, 524.613 and 524.706.

Sec. 135. Sections 524.106, 524.402, 524.403, 524.518, 524.704, 524.1307, 524.1308, 524.1407, 524.1507, 524.1701, 524.1702, and 524.1703, Code 1995, are repealed.

Approved May 3, 1995

## CHAPTER 149

### REGULATION OF CEMETERIES AND FUNERAL AND CEMETERY MERCHANDISE AND SERVICES

H.F. 486

†AN ACT relating to the regulation of cemetery operators and the regulation of perpetual care cemeteries and nonperpetual care cemeteries, establishing requirements related to the sale of preneed funeral contracts and the sale of funeral and cemetery merchandise, establishing fees and use of those fees, and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 523A.1, unnumbered paragraphs 1 and 4, Code 1995, are amended to read as follows:

1. Whenever an agreement is made by any person, firm, or corporation to furnish, upon the future death of a person named or implied in the agreement, funeral services or funeral merchandise, a minimum of eighty percent of all payments made under the agreement shall be and remain trust funds until occurrence of the death of the person for whose benefit the funds were paid, unless the funds are sooner released to the person making the payment by mutual consent of the parties. Payments otherwise subject to this section are not exempt merely because they are held in certificates of deposit. The commissioner may adopt rules to prohibit the commingling of trust funds with other funds of the seller.

This section does not apply to payments for merchandise delivered to the purchaser. Delivery Except for caskets and other types of inner burial containers or concrete burial vaults sold after July 1, 1995, delivery includes storage in a warehouse under the control of the seller or any other warehouse or storage facility approved by the commissioner when a receipt of ownership in the name of the purchaser is delivered to the purchaser, the merchandise is insured against loss, the merchandise is protected against damage, title has been transferred to the purchaser, the merchandise is appropriately identified and described in a manner that it can be distinguished from other similar items of merchandise, the method of storage allows for visual audits of the merchandise, and the annual reporting requirements of section 523A.2, subsection 1, are satisfied.

Sec. 2. Section 523A.1, Code 1995, is amended by adding the following new subsection: